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[GRATIS.]

THE COST BOOK, ITS PRINCIPLES AND PRACTICE:

EMBRACING

A CODE OF RULES AND CONDITIONS, AND ALSO ONE OF BYE-LAWS, FOR THE PERFECT CONSTITUTION AND REGULATION OF A COST-BOOK MINING ASSOCIATION; ALSO,

SUGGESTIONS FOR THE IMPROVEMENT OF THE PRESENT ANOMALOUS STATE OF THE LAW IN REFERENCE TO MINING; AND

A CONSIDERATION OF THE ALTERATIONS NECESSARY IN THE LAW FOR THE LIMITATION OF LIABILITIES IN MINING PARTNERSHIPS.

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"Nam usi exigente et humane necessitatibus, gentes humane Quendam sibi constituerunt."—JUST. INST. I. 2, § 2.

PREFACE.

IN consequence of Mr. T. A. Readwin's generous announcement in the *Mining Journal* of the 26th day of March last, of a premium of twenty guineas for "The best paper descriptive of the Cost Book, its Principles and Practice," the writer has been induced to bring together, and reduce into some order, the scattered notes of many years' reading and experience on the Cost-book Principle and the General Law of Mines. These he submits in competition, not on account of their literary merit (for the prescribed time has prevented him paying any attention to their diction), but because of the truth and soundness of the law as therein detailed from the settled and authorized cases—the references to which he has been careful to state accurately; the whole forming a body of law on the cost-book principle, which he almost dares to affirm has never before been brought together, and which he unhesitatingly asserts has never been published in so digested a form.

In anticipation of the objection that the following pages are altogether of a legal character, it may be answered that that is unavoidable, as well from the legal caste of the submitted questions as from the fact that the law is the only authentic arbiter upon the principles of the cost book.

CHAP. I.—THE COST-BOOK PRINCIPLE.

An attempt is made in the following pages to lay before those interested in mining enterprise a lucid and true relation of the cost-book principle as settled by law, than which no other subject is at the present time of so great importance to the mining public, as well on account of the vast sums of money which are subjected to its control, as of the conflicting opinions that are entertained respecting its characteristics; the requirements and inconvenience of which having marked out the present as the time upon which a treatise on the subject should be given to the public.

SEC. I.—DEFINITION.

A great source of the ignorance and uncertainty as to the true nature of the cost-book principle has arisen from the many different names by which it has been from time to time called. Thus, Cornish mining associations on the above principle were, before the stat. 7 and 8 Vict., cap. 110, (which exactly defined joint-stock companies), sometimes even by the law reporters erroneously called *joint-stock companies* (see *Hawken v. Bourne*, 8 M. & W. 703); but, after that statute, the reporters gave to them the name of *scrip companies*. At a later period, however, whilst the adoption of the cost-book principle was supposed to be legally confined to Cornwall, it was called the *cost-book custom*; a most erroneous appellation, and one which has tended not a little to the maintenance of an inconvenient error, which is now, however, happily passing away. Subsequently, it was designated a *system*; and so a given company was said to be "conducted on the cost-book system." But within the last year or so our subject has received the appellation of the *cost-book principle*, which last word, although perhaps not more etymologically correct than the word "system," yet has the advantage of being the word adopted by the statutes 7 and 8 Vict. c. 110, s. 63, and 12 and 13 Vict. c. 108, s. 1, and accordingly also by the judges both at law and equity, and particularly by Wood V.-C., in the late case of *Arundell v. Atwell*, E. T., 1853.

Many attempts have at various times been made to define the cost-book principle, but hitherto most unsuccessfully; the causes of failure, beside those consequent upon the difficulty, nay impossibility of defining that which is but imperfectly understood, being traceable to either an ignorance of the admitted characteristics of the principle, or the introduction into the definition of mere qualities, properties, or accidents. The best consideration of the writer as to the logical definition of the cost-book principle is that "The cost-book principle is a partnership, the conditions of which are contained in a cost-book."

The above definition, though a strictly logical one, does not, however, convey a notion of its subject sufficiently specific for practical purposes. It is necessary therefore to give a description of it, which is—"That the cost-book principle is a voluntary commercial usage in the nature of an ordinary common-law partnership applicable to the working of mines by an association of adventurers." Its five essential characteristics being—

1. That the management of the mine is under the immediate

control and direction of the whole body of adventurers, or their specially-appointed deputy.

2. That the powers and obligations of each adventurer are exactly commensurate with the quantum of his interest in the association, which is ruled by a majority—or, in the words of Pryce,* "that the determinations of the adventurers, which are settled not by voices but shares, are conclusive for the whole body."

3. That all the transactions of the association be for cash, except where a necessity arising from circumstances or usage otherwise requires.

4. That the accounts of the association be paid, calls made, and dividends declared at short intervals, usually bi-monthly.

5. and lastly. That a perfect register of the adventurers be kept, in a way that the fact who are adventurers may not only be known by that register, but may be proved by the handwriting of the adventurer, or by documents in the possession of the association. *Tippet v. Johns*.

It is proposed, at a subsequent part of this paper, to consider more at length the legal value and effect of the above essential characteristics of the cost-book principle.

SEC. II.—POSITION OF THE COST-BOOK PRINCIPLE IN THE ENGLISH JURISPRUDENTIAL SYSTEM, AND ITS GENERAL APPLICATION.

In order to arrive at an exact knowledge of the cost-book principle, it is necessary that its position in the English jurisprudential system should be considered and ascertained; to accomplish which the public mind must be freed from the notion that the principle is limited or peculiar to Cornwall, an error occasioned to some extent by inaccurate writers, who have obstinately persisted in defining the cost-book principle to be a "*Cornish custom*," and so have inculcated the erroneous notion that it is a custom limited territorially to the county of Cornwall.

To explain: The word "*custom*" is capable of a double signification—the one popular, the other legal. The former, or popular signification conveys the notion of usage, habit, &c., as unconnected with place. The latter, or legal, the notion of usage, habit, &c., as connected with place or territorial limit. Thus, when certain writers defined the cost-book principle to be a "*custom*," such term was by most of their readers erroneously understood to embrace the notion of "*place or specific territorial limit*;" whereas, whatever notion such writers may have intended to convey, they (the readers) should have rendered it according to its popular meaning, that is, a usage or habit, &c., general in its exercise, or, in other words, "*without place or territorial limit*."

It is necessary, however, to consider this point upon its merits, and to show that the cost-book principle is not peculiar or territorially limited to Cornwall.

The whole municipal law of England is justly and commonly divided into two kinds, namely, the "*lex scripta*," and the "*lex non scripta*," or, as sometimes more accurately expressed, *Jus quod constat ex scripto*, aut *ex non scripto*. Now it is indisputable that the cost-book principle does not owe its origin to a *lex*, for such assumes a commencement by writing; that is, that the principle became a legal fact by virtue of some written instrument, wherein its terms are detailed. That there never was such an instrument is universally admitted; besides, if such had ever existed or now exists, its terms, if intelligible and sufficient, would obviate all that difference of opinion as to the characteristics of the principle so pertinaciously entertained, and which it is the object of this essay to discuss. Not being a *lex*, the principle must be within the category of those *jura que constant ex non scripto*, which embrace not only customs general to all the inhabitants of this kingdom, usually called because of their generality the *common law*, but also those customs which are particular to certain parts of the kingdom, and which form the *jura loci*, or customs proper. Thus as the cost-book principle must be either a general custom or a particular custom; so it is proposed to show that it is a *general custom* by proving that it is not a *particular custom*, which may be effectively done by a detail of a few of the more prominent statutory and common-law authorities in which the general application of the cost-book principle has been clearly recognized.

1. By Statutory Enactment.—The Joint Stock Companies' Act (7 & 8 Vict. c. 110, s. 63) enacts: "That nothing in this act contained shall extend or be construed to extend to any partnership formed for the working of mines, minerals, and quarries of what nature soever on the cost-book principle;" which section the Registrar-General of Joint-stock Companies has officially declared operates to extend such principle beyond the limits of Cornwall to all parts of the kingdom; or, in other words, saves any such association, although out of Cornwall, from the trammels of the Joint-Stock Companies' Acts. That this opinion is a sound one admits of no question when we consider the whole scope and object of the act, and that there are no words in it either expressly or impliedly limiting the cost-book principle to Cornwall. Also the Winding-up Act (11 & 12 Vict. c. 45, s. 2) enacts: "That all associations or companies formed for the purposes of working mines or minerals shall be liable to the operation of this act; Provided nevertheless that nothing herein contained shall affect the jurisdiction of the Court of Stannaries in Cornwall." Now this section, although often cited in support of the generality of the principle, does not prove anything; indeed it avoids the question. To proceed: Also the Winding-up Amendment Act (12 & 13 Vict. c. 108, s. 1) enacts, that such act shall apply to all companies whereof the partners or associates are not less than seven in number; "Provided nevertheless that nothing herein contained shall affect the jurisdiction of the Court of Stannaries in Cornwall, and that nothing in this act nor in any act herein referred to contained shall extend or be construed to extend to any partnership, association, or com-

* *Mineralogia Cornubiensis*.

pany formed for the working of mines on the principle common called the *cost-book principle* within the said stannaries and jurisdiction of the said court, unless the owner or owners, &c., of one tenth in value of the shares in any such mine, as shall appear in the cost book, shall present a petition to the Lord Chancellor, &c. for dissolution and winding-up." This enactment likewise avoids the question, though its evident spirit is that the principle is general in its application. But to proceed to the more conclusive common-law authorities.

2. By the Common Law.—That an association on the cost-book principle may be established in any part of this kingdom is clear because the basis and characteristics of such principle are not contrary to law. Not being contrary to law, they are open to the free adoption of the whole land; and so general is this liberty that nothing but an act of parliament can territorially limit their application. The principle is not the privilege of Cornwall, or the stannaries of Cornwall, or of mining associations only, but the common right of the whole kingdom, and therefore may be adopted in respect of locality, and for other mercantile pursuits beside mining. Beside the general principle of the common law discussed above which is conclusive of the question, reference may safely be made to the numerous cases in which associations based on the cost-book principle out of Cornwall have come before the courts both of law and equity; and in none of them has the objection been taken that such associations are illegal, because formed for the purpose of working mines out of that county. It will, however, be sufficient to specifically mention three or four cases only. They are those of the Pennant and Craigwen mines, before Stuart, V.-C. the Kilbricken case; and the very late case of *Arundell v. Atwell* (E. T. 1853). In the first case the mines were in Wales, and were declared to be within the jurisdiction of the High Court of Chancery and the Winding-up Acts (11 & 12 Vict. c. 45, and 12 & 13 Vict. c. 108), though both such acts save the jurisdiction of the Court of Stannaries of Cornwall. In the second or Kilbricken case, which concerned a mine established in Ireland on the cost-book principle, the High Court of Chancery assumed jurisdiction over and wound up the affairs of the mine, which was not declared or treated as supposed to be illegally constituted. The third and last case is that of *Arundell v. Atwell*, in which Wood, V.-C., whilst speaking of the applicability of the "*principle*" to all parts of England, said "This is a company which is carried on upon the cost-book principle, a principle which is by no means new, but has been extensively acted upon and recognized by several acts of parliament. It is most common in the county of Cornwall; but it is known in the lead districts of Derbyshire and other places. The mine being in Devon is not within the Stannary Court; but there is no reason why this court should not carry out the same relief as the Stannary Court." Not only is this case valuable because a direct authority upon the general application of the principle, but the more so as it completely negatives one of the most fallacious yet common arguments in support of the notion that the principle is limited to Cornwall, namely, because in that county exists the Court of Stannary, which alone has jurisdiction over cost-book associations. If such an argument had been used before Wood, V.-C., he could not have answered it more directly than in the words given above, *i. e.*, "The mine being in Devon is not within the Stannary Court, but there is no reason why this court should not carry out the same relief as the Stannary Court." Therefore as the cost-book principle is, as we have seen, part and parcel of the common general law of the land, and therefore general in its application, it cannot be a *particular custom*, or local or proper to the jurisdiction of the stannaries of Cornwall.

As the writer presumes himself to be the first person who described the cost-book principle to be a mere commercial usage, so he has deemed it convenient to establish his position by the following extracts from 1 Steph. Com. p. 54:—"To this head (*particular customs*) has sometimes been referred that branch of law which comprises certain rules relative to bills of exchange, partnership and other mercantile matters, and which is generally denominated the *custom of merchants*. As its character is local, nor its obligation confined to a particular district, it can with propriety be considered as a *custom* in the technical sense which we now refer. It is in truth only a *part of the general law of England*, and is distinguished by a separate name only because it applies to the particular subjects in question, principles differ from those which the common law ordinarily recognizes, because these principles were engrafted into our municipal system by gradual adoption from the *lex mercatoria*, or general body of European usages in matters relative to commerce. Upon the same principle we must exclude from the technical definition of a *custom* the mere usages of particular trades when not restricted to any particular limit in point of place, as opposed to the real large. If there be any such usage of immemorial observance, authenticated by judicial decision, it will form according to definitions part of the *general law of England*. If there be sanctioned by act of parliament, it will constitute part of statute law; but for the rest, the want of any peculiar locality terminates them to be no customs, and they are consequently *rules of law at all*. Yet as matter of fact they often fall under notice of our courts of justice, and are very necessary to be considered; for as the prevalence of any course of dealing among leads to the presumption that in particular instances they intend to conform to it, the existence of such usages as these may bear materially or even conclusively upon the question whether an implied contract was entered into between certain parties, and upon the question in what sense their express contract was signed to be understood." Remark upon the conclusiveness of above extracts is unnecessary. The writer therefore submits that he has in this section shown that the position of the cost-book principle in the English jurisprudential system is, as above described, "*a mere voluntary commercial usage, general in its*

ation and open to the adoption of the whole of this kingdom, and therefore not confined to or the exclusive privilege of Cornwall."

SEC. III.—ORIGIN OF THE COST-BOOK PRINCIPLE.

An accurate knowledge of the history of the cost-book principle is almost universally admitted to be unattainable. This can scarcely be wondered at when we consider, as we have shown, that it exists in our legal system as a *voluntary commercial usage*, and therefore not having either a precise commencement or specific limits.

In order, however, that as much light as possible shall be shed upon this portion of our subject, two quotations will be given from early and authentic historians upon the manner of the Cornish men in working their mines, both which accounts undoubtedly describe the infancy of the cost-book principle.

The first quotation bears date so early as 1602, and is from Carew, "The Survey of Cornwall," who at p. 10, when discussing the manner of setting on work, says:—"When the new-found worke intiseth with probabilitie of profit, the discoverer doth commonly associate himself with some more partners, because the charge mounteth mostly high for any one man's purse, except lined beyond ordinarie, to reach vnto: and if the worke doe faile, many shouldiers will more easily support the burthen. These partners consist either of such tinnners who worke to their own behoofe, or of such adventurers as put in hired labourers. The hirelings stand at a certain wages; either by the day, which may be about eightence, or for the year, being betwene four and sixe pound, as their eserving can drive the bargaine, at both which rates they must ind themselves. If the worke carrie some importance, and require he travaile of many hands, that hath his name, and they their verseer, whom they terme their captain."

It may be objected that the above quotation is scarcely to be recognised as descriptive of the present cost-book principle; nevertheless it undoubtedly is so, as it clearly mentions an association of miners who, either by themselves or servants, work the mine without rendering their associates liable, share the profit or loss, and, if necessary, appoint a pursuer. Also, in the two kinds of adventurers, there is a faint allusion to the ancient distinction of in-and-out adventurers, which in after-times became the crowning scandal of Cornish mining associations. But to proceed:

The next, and only remaining quotation, is from the celebrated work (Mineralogia Cornubiensis) of Pryce, the learned and scientific historiographer of Cornwall, who wrote during the last century, some 176 years after his predecessor, Carew. Pryce says:—"Mining in Cornwall is so expensive in its practice (Pryce Min. Corn., p. 173. Mare, v. Malachy, 1 M. & C. 559, 560), and so uncertain in its success, that few or none of the Cornish mines are carried on at the risk of one or two persons. Where there are so many blanks to one prize, it would be gaming in the extreme for any person singly to begin a seeking adventure, or, indeed, to take anything of the kind which is not already discovered, and likely to be rendered profitable almost to a certainty. And upon this ground generally happens that the charges of Cornish adventurers are borne by many partners—from 4 to 10, 16, 24, 32, &c." [See post some observations on these numbers.] "The shares in these ventures are often so fractional and intricate, that a stranger, though tolerable arithmetician, would be greatly at a loss to divide and appropriate the doles, or shares, with that precision which is familiar to many illiterate tinnners; who can cast a piece of ground and assign proportions of a parcel of copper or tin ore with the utmost accuracy by the help of twenty shillings, pebbles, or buttons."

"The principal manager in their mines is the pursuer, or book-keeper, who keeps all the accounts, and receives and pays all the money. This person, usually one of the adventurers, is chosen by the rest for the administration of their affairs during the intervals of their monthly or other meetings: at each of which a state of the transactions and accounts of the mine is produced, and, after it is regularly examined and passed, the total charge is divided according to the doles or shares, of which each adventurer is obliged to pay his respective quota. The adventurers present at the meetings take no consideration the most effectual methods of working the mine; and their determinations—which are settled not by voices, but by rules—are conclusive for the whole body."

[Turner v. Hill, 11 Sim., 2. In re The Wheal Lovell Mining Company, 1 Hall and T., 125. In Curling v. Flight, 2 Phil., 614, it is said that the party who directs a mine worked on the cost-book principle is the *pursuer*, and he who keeps the mine accounts is called the *book-keeper*.]

"In large and important mines, besides the book-keeper or pursuer, there is a superintendent over all, called the 'captain,' who, directing the direction of the works both above and under ground, ought to be an experienced practical miner, and to understand every distinct branch of the business. Under him are *bottom captains*, whose business is to see that the common men perform due labour in the mine; and that they do not promiscuously confound good and bad ore together, but break them separately, or as far as possible. And also the *grass captain*, who directs the separation of the ore again above ground, so that the best or more solid of it be made fit for sale, especially if it is a copper mine. For which reason, some call him the *dresser*; but whether as captain or dresser—having little more to do than to repair what goes in the bal or mine among the horses, whyns, carriers, smiths, centers, &c.—he should be able to keep a tolerable journal or cost-book. He also delivers materials to the men, such as gunder, candles, &c., and is on that account often called the *erial-man*."

Deep chargeable mines are carried on by persons of great fortune and skill; but shallow mines are occupied indifferently either by one, or by the labouring miners, and frequently by both. When book-keepers, or any other officers, by supplying coal, rope, files, or other materials, are *part adventurers*, they are styled *intenners* (Pearce's Stan. Laws, p. 51); and those who live at a distance from the mine, or have no immediate interest by supplying works with materials, are called *out-adventurers*. By the stan-laws, indeed, the latter have the same privilege of supplying work with men or materials in proportion to their respective shares; and when this is exercised in opposition to certain intenners, it is productive of much jealousy and contest, so that more advantageous to mines when they are disinterestedly managed, and supplied with materials by persons who have no party in them. In this case, the bickerings of contending interests are prevented, and the out-adventurers are satisfied that too many trials are not crowded upon the mine by favour and connivance; yet it is but reasonable that those adventurers who are in trade should have the preference in supplying a mine with materials, when it can be done with probity and honor."

This lucid and clear description of Pryce, so far as it details the infancy of a cost-book mine, requires no comment. It may, however, be remarked that a consideration of it has enabled the author of this essay to answer the interesting point why Cornish mining associations should fix the number of their shares at the presently arbitrary numbers of 64, 128, 512, 1,024, 2,048, 4,096, &c., &c. The author gives the following, which he submits as the correct solution:—"An association of miners cannot consist of more than two, which number being multiplied by two, and then multiplied also by the same power of two, and so on for more or less, by the same power or common ratio, the products become as are stated; or, in mathematical language, the numbers are in geometrical progression, the first term being unity or 1, and the common ratio 2. Thus:

$$2 \times 2 = 4 \times 2 = 8 \times 2 = 16 \times 2 = 32 \times 2 = 64 \text{ (Boscawell, &c.)}$$

$$\text{Again: } 64 \times 2 = 128 \times 2 = 256 \times 2 = 512 \text{ (Trehane, Wheal Jane, &c.)}$$

$$\text{Again: } 512 \times 2 = 1,024 \text{ (Devon Great Consols, Gonamena, Spearne Consols, St. Aubyn, and Gryll's, and a host of others). Again:}$$

$$1,024 \times 2 = 2,048 \text{ (Carnyorth, Castle Dinas, East Wheal Belford, East Wheal George, and many others). Again:}$$

$$2,048 \times 2 = 4,096 \text{ (Boningdon Consols, East Alfred Consols, Tre-burget United, &c.) Again:}$$

$$4,096 \times 2 = 8,192 \text{ (Hawkmoor, &c.) And so on for other numbers.}$$

So that the numbers of shares in different Cornish mines were wont to be in perfect geometrical progression with each other; the power, or common ratio, being the number two. The geometrical progression of the numbers mentioned above by Pryce led the author to the above calculation and solution. The fact may, however, be generally known, and so be no new discovery. However, the magic number of 1,024, or any other of the above or similarly constituted numbers, need not henceforth be a matter of surprise, at least, to the young miner of the present day.

Beside the above extracts from Carew and Pryce, Pearce in his "Laws and Customs of the Stannaries" gives the rules that have been from time to time passed in convocation by the stannars for the government of mining partnerships in Cornwall. As they agree with the statement of Pryce, no doubt the latter compiled his account from them. The material references to Pearce are 32 Jac. 1, r. 19, p. 26; 12 Chas. 1, r. 16, p. 40; and 2 Jac. 2, r. 22, p. 57. Information respecting mining partnerships in Cornwall at so early a date are, however, more amusing than practically useful; still, if the reader should be anxious to follow up this subject, he will find that the pages of Pearce and Smirke's "Law of Stannaries" contain very valuable and learned information.

So much for the origin of the cost-book principle. In the next section will be found discussed more at length the general principles and chief characteristics of the modern cost-book principle.

SEC. IV.—THE CHARACTERISTICS OF THE MODERN COST-BOOK PRINCIPLE.

The characteristics of the cost-book principle, as sanctioned by modern usage, are so different from those appertaining to the primitive and simple associations of miners just narrated, from Carew and Pryce, that it is difficult to identify them as representing the same institution; at all events, for practical purposes, it is absolutely necessary to discuss more at length, and in detail, both the general principles and chief characteristics of the cost-book principle as they obtain at the present day (Mare v. Malachy, 1 M. & C., 561).

Rules and Conditions.—It is essential that every mining association based on the cost-book principle should be subject to and entirely governed by a code of rules and conditions resolved at a meeting of the adventurers; which rules, &c., as they form the constitution of the association, should be religiously observed by the adventurers. They must also be entered in the cost book, and be signed by all the adventurers. They do not on that account require an agreement stamp (S. L. T. 450, ex Pollock C. B.). The rules and conditions of all cost-book mining associations are not identical, the adoption of many of them being entirely discretionary. The points of difference are, however, or rather should be, such only as the accidental circumstances of each association render imperative. The rules, &c., of all the associations should agree in stating that the association shall be conducted on the *cost-book principle*. Moreover, such rules, &c., should accurately and without reservation or ambiguity state the exact terms and conditions upon which the association is established, as a departure from their strict letter without the consent of ALL the adventurers must inevitably lead to legal proceedings (of which the law cases afford several examples), and also throw great discredit and liability upon all parties concerned in the departure (Moore v. Hammond, 6 B. & C. 456; S. C. 9, D. & R. 452). In the following section will be found detailed a complete set of rules and conditions necessary for the government of a cost-book mine. They have been prepared with some care, and probably contain every general cost-book rule necessary for the most complete and perfect management. Among the very many improvements supposed to be introduced for the first time into the cost-book rules, is the appointment of auditors and the power to make bye-laws, the latter of which is useful for exactly defining the internal management of the association upon matters not of fundamental importance. All the constitutional provisions being contained among the rules and conditions can be amended, &c., only by the adventurers in special general meeting assembled. It may be objected that the rules, &c., given below are of an inconvenient length: the first answer to which is that, if so, it is a safe error; and the second, that they may be simplified according to the discretion of the adventurers of each association. The rules, &c., are given, and may be adopted or not, as may be deemed expedient. The following remarks in this section will be made up of short observations upon the more prominent portions of the cost-book rules. They would have been more appropriately placed as notes to the rules themselves, but the present form of this paper renders such a course extremely inconvenient.

Mine, Mineral Ground, &c.—The mine—grant of sett—license to search for minerals, or whatever may be the interest of the association, is usually granted to trustees or the pursuer, or to one or more of the adventurers; but to whomsoever the legal estate is granted, he or they do not usually take it in trust for the other adventurers, so that the latter are not liable for the fulfilment of the covenants. Whether this be a fair course of dealing towards the grantor, it is not necessary here to discuss; suffice it to say, that the adventurers being cestui qui trust, would no doubt be answerable over in equity to the trustees, &c., for any breach of covenant.

Capital.—It is advisable that the capital proposed to be raised, though amply sufficient, should not be greatly in excess of the apparent requirements of the association, as ascertained by estimates, &c. For whilst, on the one hand, excessive capital embarrasses the working of a company by facilitating unnecessary calls, engenders extravagance, reckless expenditure, creates a heavy debt, destroys public confidence, and ultimately perhaps ruins the undertaking; so, on the other hand, a justly sufficient capital renders unnecessary all clauses as to the payment and non-payment of calls and forfeitures arising therefrom, simplifies the accounts and affairs of the association, ensures economy and a judicious expenditure of funds, avoids an useless capital, promotes public confidence, and to a large extent effects the prosperity of the undertaking. It may be remarked, that if the capital should be found insufficient, it is easy to increase it by calling a special general meeting of the association. An unforeseen insufficiency of capital must not be confounded with a practice which cannot be too much condemned, i. e., the commencement of business upon a subscription of less than the authorised and necessary amount of capital. Such a proceeding is a fraud upon the adventurers, by leaving them without the support of co-adventurers, upon whose capital and counsel they justly relied. Such a fraud subjects all parties concerned in it to severe penalties. Thus, the deluded adventurers are not liable for the debts of the association, and have also power to rescind their contract, and recover the price of their shares from those to whom they have paid for them. If, however, any adventurer should interfere with the management of the association after knowledge of the limited capital, his right to rescind his contract is terminated. Thus, the case of Tredwen v. Bourne, 6 M. & W. 461 (1840), was as follows.

A Cost-book Mining Association was formed, the capital to be £30,000, in £3,000 shares of £10 each; and 2,000 shares only were actually subscribed for, of which the defendant took 100. The court held that letters subsequently written by the defendant to the directors, requiring them to call a meeting for the purpose of changing a director, were evidence to go to the jury to show that he authorised the directors to proceed in the management of the concern with the *smaller amount* of capital, so as to render him liable for the price of articles supplied for the use of the mines, on the order of the directors, although there was no evidence that he had ever been at the mine, or had attended any meetings of the company (Arundell v. Atwell, Wood v. C., E. T., 1853; and see Pitchford v. Davis, 5 M. & W. 2; cited also in Hawken v. Bourne, 8 M. & W., 708 f.) In the formation of a cost-book association, it is strongly urged that only *necessary* capital should be raised in the first instance; that the shares be each of £1, at least not of a less amount, and that the whole amount be payable upon allotment, thus doing away with the complicated machinery of calls; and, as we shall see hereafter, mitigating to some extent the rigour of forfeiture of shares. If, however, it be deemed expedient to raise a large or further capital, calls must be resorted to, which are usually resolved by the adventurers duly assembled at a special general meeting, which resolutions bind all the adventurers, whether present or absent. The proprietor of a share is liable to an action for non-payment of the calls or instalments made upon his shares. The form of action at common law is, however, entirely dependent on the terms of the contract, whether by deed or otherwise. In Cornwall such a case is within the Stannary Laws (see Pearce's Stan. Law, 26, 212, & 240, p. 31). Usually, however, a creditor of the association is directed to sue the defaulting adventurer (Arundell v. Atwell, Cor. Wood v. C., E. T., 1853; see post, Pearce's Stan. Law, p. 51, 26), or the shares are declared forfeited, if the rules so provide (Stewart v. The Anglo-Californian Gold Mining Company, 21 L. G., ns. p. 393, Q. B.).

Shares.—The capital of a cost-book mine is usually divided into a determinate number of shares of a fixed amount, which are disposed of upon the terms agreed to by the adventurers forming the association, and written by their pursuer or manager in the cost book of the mine; such cost book being one in which, agreeably with the usage of Cornish mines, is entered not only an account of the current expenditure upon the works, but also, as we have seen, the constitution of the association—i. e., the rules and conditions on which it is based—a record of all material transactions relating to the mine, and especially of the transfer of shares, which last constitutes the title of the adventurers (Mare v. Malachy, 1 M. & C., 559). The names of the adventurers taking up the shares are entered in the cost book, together with the number of shares taken up by each, and the distinctive numbers of such shares; because, according to such numbers, as shown by the cost book, are the profits or losses of the concern at stated intervals (usually bi-monthly) apportioned.

ADVENTURERS.

It has been thought expedient not to use throughout this paper the word "*shareholders*," but that of "*adventurers*," the latter being the proper distinctive appellation of the partners of a cost-book association. It may be here stated that the general caste of the subjoined rules is to vest in the adventurers, in general or special meeting assembled, their pristine powers of entirely governing their association, and of appointing their own officers, &c.; to ensure which, complete authority has been given to any adventurer to inspect and have extracts of all mine accounts, books, and reports, and to compel their due production at all convenient times.

In order to free the adventurers as entirely as possible from the consequences of their general liability for the whole debts of their association, hereafter discussed at length, it has been provided that the contractor on behalf of the association shall give *security* for the due fulfilment of his duties, and that amongst others it shall be his duty to make all contracts for £10 or more, in writing, and that no contract above £50 be made without informing the person with whom it is made that the association is based on the cost-book principle, and that the adventurers are liable only in proportion to the amount of their shares (see Rules, &c., and post, Powers of directors, &c., to bind adventurer, &c.).

With these few general remarks, we proceed to consider the whole legal position of an adventurer at some length, and in the following order:—

Who is an adventurer?—To become an adventurer in a cost-book mining association, in order to exercise and receive benefit from the powers and privileges of that condition, it is absolutely necessary to be, or to be entitled to be, an *actual owner of shares*, according to the terms defined in, and to sign the cost book, as no other act or acts will confer that condition for such purposes without the consent of the association. The quantum of power or benefit of an adventurer is, or rather should be, equal to the amount of his adventure. Thus, if he sign for two 1-100th shares, or any other number, he should become interested in the concerns of the association to the amount of two 1-100th shares, or such other number. The obligations and penalties of the condition of an adventurer may, however, as regards the world—i. e., creditors, &c.—be incurred in three ways; the first, by the actual ownership of shares; the second, without such ownership by expressly informing the particular creditor that such condition exists upon a faith in which he supplied goods, &c.; and the third, also without such ownership by so interfering with the management and concerns of an association as to lead a creditor reasonably to infer (and so estop a denial) that such condition exists. In the first case proof of the ownership of the shares is alone sufficient to impose the liability to perform the obligations of an adventurer; in the second case proof of the admission, &c., is sufficient; but in the third case the evidence, though usually of a more general character, yet must be such as will warrant a jury to conclude that the ownership of shares exists. (Dickenson v. Valpy, Lloyd & Welsby, 19; S. C., 10 B. & C. 129). These three points were severally decided by the case of Vice v. Anson (Lady) 7 B. & C. 409; S. C., 1 M. & R. 113; S. C., 1 Moo & Mal., 98; S. C., 3 C. & P. 19; which case, although much disputed and in some points modified by subsequent cases, Steigensberger v. Carr, 3 Scott n. r. 2, 466, S. C. 3 M. & G. 197, yet is still an acknowledged authority to the extent above quoted. Lord Tenterden, in addressing the jury in that case, said:—"It is clear that in this case the plaintiff did not actually give credit to Lady Anson, and that she never held herself out to the world as a partner. If, therefore, she is chargeable, she can only be so on the ground that she is *really* interested; and no mistaken supposition of her own that she was so would make her liable, *unless it were communicated to the plaintiff, so as to mislead him*. The partnership, if any, is not strictly a trading partnership; it is one formed for the purpose of working a mine—a species of real estate; and the plaintiff's claim is for labour and goods employed in working that mine." The foregoing case of Vice v. Anson (Lady) was decided on the ground that the liability of the defendant had not commenced, because the condition of adventurer did not exist; whilst the principle involved in the subsequent cases of Tredwen v. Bourne, 6 M. & W. 461 (1840), was that the liability of the defendant as adventurer was made out through his participation in the concerns of the association, and because he held himself out to the world as a partner. The latter case was that of an action for goods supplied for the Trewalfs mine, of which the defendant had taken 100 shares. The goods in question were supplied on the order of the directors, and were necessary for the ordinary use of

the mine. The jury found a verdict for the plaintiff, with liberty for the defendant to move as in case of a nonsuit, which the court refused, on the ground that the fact that the defendant had taken shares, together with that of his having subsequently written letters to the directors requiring them to call a meeting for the purpose of changing a director, were evidence to go to the jury to show that he was an actual shareholder, and had sanctioned the proceedings of the directors in contracting for the goods, to recover the price of which against him the action was brought. In the more recent case of *Harrison v. Heathorn*, 6 M. & G. 81, S. C. Scott's n. r. 735, it has been decided in confirmation of *Tredwen v. Bourne*, that any person attending, in the character of an adventurer, a meeting of the association, or otherwise by conduct admitting himself to be a partner and adventurer, is sufficient *prima facie* evidence that such a party is a shareholder in order to charge him with an engagement entered into by a majority of the adventurers present at a subsequent meeting which he does not attend (see also *Pitt v. Eyton*, 3 Com. B. 32; *Ellis v. Schmoek*, 3 M. & P. 220; S. C., 5 Bing. 521; *Ralph v. Harvey*, 1 Q. B. 845). As a general rule adventurers wish to determine their liability simultaneously with the cesser of their interest. This consequence does not, however, follow, unless the shares so parted with are legally transferred to the transferee—*Vice v. Anson* (Lady) *supra*. But if they are held by word of mouth, they can be transferred by word of mouth, so as to avoid liability for goods supplied after the transfer. *Northey v. Johnson*, 19 L. T. 104, Q. B. It is also a general rule that as between an adventurer and the association it is necessary that the transfer should be in strict accordance with the rules of the cost book, which should and usually do require a transfer to and registry of the transferee in the cost book, which, according to Cornish usage, is all that is necessary. Thus, in the case of *Reynolds v. Bassett*, decided on appeal by the Lord Warden, assisted by several eminent judges, the transfer of shares in a mine based on the cost-book principle by a mere entry in the cost book by the purser, was held to constitute a sufficient transfer; which doctrine is to some extent supported by *Steigenberger v. Carr*, 3 Scott n. r. 471; S. C., 3 M. & G. 197; *Lawler v. Kershaw*, 1 Moo & Mal 93; *Cooper v. De Tastet*, 2 M. & Scott 714; *Toll v. Lee*, 4 Ex. rep. 230.

Powers of inter se.—The mutual rights and powers of the co-adventurers of a mining association, based on the cost-book principle, are entirely controlled by and altogether subject to the legal rules and conditions contained in the cost book (*Arundell v. Atwell*, cor. Wood, V.-C., 2 T. 1853; *Hawken v. Bourne*, 8 M. & W. 703; *Dickenson v. Valpy*, 10 B. & C. 128; S. C., 5 M. & R. 126; *Tredwen v. Bourne*, 6 M. & W. 464, 465; *Brown v. Byers*, 16 M. & W. 252). Where the cost book is silent, such rights and powers are for the most part identical with those of an ordinary common-law mining partnership. For instance, the adventurers in a cost-book association have the implied power of freely transferring their shares to any stranger without allowing the remaining adventurers to exercise a *delectus personarum*. Although this absence of the *delectus personarum* has by some eminent writers on mining law been held to be the principal, if not essential difference between the cost-book principle and the ordinary common-law mining partnership, yet such position is not correct, for in the case of *Faraday v. Wightwick*, 1 Russ. & Myl 45, 49, the Master of the Rolls clearly held that mining partnerships in general differ from an ordinary trade partnership, as well in not being subject to dissolution on the death or bankruptcy of any of the partners, as that the shares are transferable without the consent of the other partners (see *Jefferys v. Smith*, 1 Jac. & W. 301; *Bentley v. Bates*, 4 Jur. 552). In all mining associations there is therefore (unless otherwise especially agreed) an absence of the *delectus personarum*. The law marine adopts the same rule, so that any owner may sell or transfer his right at what time he pleases; indeed, the right of *delectus personarum* appears not to hold between *part-owners* as distinguished from ordinary partners. The cost-book principle, in common with other mining partnerships, enjoys the privilege of not being dissolved by the bankruptcy, insolvency, or death of any of the adventurers (*Faraday v. Wightwick*, *supra*). If the constitution of the association be improperly altered, or the committee of management or purser, or other officer, refuse an account, improperly contract, or be guilty of other mismanagement or misconduct, whereby the association or any adventurer be injured, such injured party may, by instituting proceedings at law or in equity within a reasonable time, insist that such accounts be rendered, or compensation be made, or that the association be carried on according to the rules and conditions of the cost book (*Prendergast v. Turton*, 1 Y. & C. c. 103; *Hitchens v. Congreve*, 1 Sim. 500; *Blair v. Agar*, 1 Sim. 37; S. C., 2 Sim. 289; *Lord v. Copper Miners' Company*, 2 Phill. 740). The above general principle will be sufficient to inform adventurers what their powers are against their co-adventurers or defaulting officers; and as it would be impossible to detail every wrong to which the association or any adventurer may be subjected by the conduct of a co-adventurer, he must be content with the above general statement of his position; also, if the shares of an adventurer be improperly declared forfeited, he may seek relief either at law or equity, and if successful obtain a judicial declaration that the forfeiture is null and void, and that he be let in to participate in the profits of the mine upon payment of his share of all expenses (*Prendergast v. Turton*, *supra*).

Obligations of an Adventurer to the World.—The obligations of an adventurer to a creditor, or other third party, are also subject to the legal rules and conditions of the cost book, if such creditor, &c., at the time of his contract had notice of them, and contracted subject to such rules and conditions. If, however, he had not such notice, his case comes within the general law of creditor and debtor: so that the former may enforce the whole of his claim at his discretion, either against any one adventurer or the whole of the association.

Liability of an Adventurer for the whole Debts of the Association.—Notwithstanding a common notion to the contrary, yet it is undoubted law that, under the cost-book principle, each adventurer is liable for the whole debts of the association. Adventurers in general refuse to admit that such is the law; but that such has been decided affirmatively, both at law and in equity, is indisputable. The error has arisen in not properly ascertaining the legal value of the phrase "debts of the association." It is true that mine creditors have on various occasions sought to render a single adventurer liable, and have failed; but those cases will be found to turn upon the point that the amounts sought to be recovered were not debts of the association, because there was either a lack of power in the manager, &c., to contract for the association, or that the creditors were proved to have had express notice of some clause in the rules which stopped them from seeking to render one adventurer responsible for the whole claim. In the majority of such cases, however, the debts were shown to be those of the manager or purser, and not those of the association, he not having had either express or implied power to contract on behalf of the association. This point is incidentally discussed hereafter. This liability of every adventurer to the whole debts of the association is often impliedly admitted by the fact that many cost-book associations seek (though delusively) to recommend their undertakings to the favourable notice of capitalists by stating and providing, both in their prospectuses and rules and conditions, "That provision shall be contained in all engagements to be entered into by the directors on behalf of the association, that no shareholder shall be subject or liable beyond the amount of his share;" such a statement being certainly pregnant with the affirmation that without such a clause the shareholder

would be generally liable. Connected with the above error as to limited liability is the belief that the above and similar clauses, when inserted in the rules and conditions, have the efficacy of imparting a *limited liability*. That such is not the case—or, in other words, that such clauses leave the question of liability entirely untouched—is the decision of the law. In a word, the only beneficial operation that such clauses can have is as notice to creditors; but, in order that they so operate, there must be other legal facts beyond the bare insertion of such clauses in the rules, &c., namely, a knowledge by the creditor that they exist, and that he contracted with the association in reference to the efficacy of such clauses. Moreover, a similar clause has been by the Court of Chancery epithetized as a *fraud* against the world, and therefore void, unless the privilege be granted by Parliament. Such a provision is, however, as we have seen, binding upon the adventurers inter se, because part of the cost book. It has, agreeably with the above doctrine, been decided at common law—by R. v. Webb, 14 East, 405, and Pratt v. Hutchinson, 15 East, 511—that the insertion of such a clause in a prospectus, or even in the partnership deed, does not affect the general legality of the company or its acts; and that it is because such companies are legal, and are considered beneficial to the community, that Parliament invests them with extraordinary powers and privileges, and enables them to sue and be sued by their secretary in a manner unknown to the common law. In *Walburn v. Ingilby*, 1 M. & K. 76 (1832), Lord Brougham, C., thus stated the opinion of the Court of Chancery upon this point: "The clause intimating that each subscriber is only to be liable to the extent of his share is not enough to make the association illegal: such a regulation is wholly nugatory, indeed, as between the company and strangers, and can serve no purpose whatever, unless to give notice. In that light it is not to be viewed as criminal, or as a means of deception; for the publicity of it may tend to inform such as deal with the company, and a proof of that publicity in the neighbourhood of parties so dealing might go to fix them with notice. For any other purpose, as for the purpose of restricting the liability of the shareholders, it would plainly be of no avail; and whosoever became a subscriber upon the faith of the restricting clause, or of the limited responsibility which that holds out, would have himself to blame, and be the victim of his ignorance of the known law of the land." About ten years after the decision of the above case of *Walburn v. Ingilby*, it was perfectly confirmed in the Court of Exchequer by the case of *Hawken v. Bourne*, 8 M. & W. 703, 709, decided in 1841, which was an action against a shareholder in what is termed in the law reports a scrip or cost-book mine in Cornwall, carried on for the benefit of several persons by directors. The plaintiff's claims were for necessary goods supplied for the working of the mine, pursuant to the order of the purser, which there was evidence was a customary course in such concerns. It appeared that the defendant had taken shares in the undertaking at or about the time of its establishment, and paid sums of money towards working the mine, had interfered in the appointment of directors, and, in short, that he was really a partner in the working of it; but there was also evidence that he had become such under an agreement, of which the prospectus was offered as proof, that the directors were not to deal upon credit. It also appeared that the plaintiff was entirely ignorant that the defendant had anything to do with the concern. In summing up the case, the learned Judge who tried the case told the jury he thought that the mine, being worked for and with the knowledge of the defendant, he was liable on such contracts as, according to the usual way of conducting such a concern, are made on behalf of the mine owners, unless the person actually ordering such supplies had in fact no authority from the defendant, and the plaintiff had notice of this; and there being evidence that the contract in question was made in the usual way of conducting such a concern, and no proof that the plaintiff knew of the limitation of the directors' authority, and of the agent appointed by them, plaintiff had a verdict. The court, in giving judgment in the last-mentioned case on a motion for a new trial for misdirection (8 M. & W. 709), said, "We have felt some doubt, in considering this case, whether the defendant was liable, assuming, as we must for the purpose of the argument, that there was an agreement that the directors were not to deal upon credit. We are, however, now satisfied that the learned Judge's direction was right, and that the jury were warranted in finding the defendant liable. There was evidence that he was a complete partner with the directors in working the mines in the manner they were worked; and one partner, by virtue of that relation, is constituted a general agent for another, as to all matters within the scope of the partnership dealings, and has communicated to him, by virtue of that relation, all authorities necessary for carrying on the partnership, and all such as are usually exercised by partners in that business in which they are engaged. Any restriction which by agreement amongst the partners is attempted to be imposed upon the authority which one possesses as a general agent for the other is operative only between the partners themselves, and does not limit the authority as to third persons who acquire rights by its exercise, unless they knew that such restriction had been made. In the present case, therefore, the acting directors had power to bind the defendant by contracts made by themselves, if made in the usual way of conducting such a concern, as well as by those made by a purser, if it was the usual mode to act by the intervention of such an agent" (8 M. & W. 710). The court, in the above judgment, beside declaring the inefficacy without notice of a clause limiting liability, also in effect said that the directors or purser of a mining association have power to bind an adventurer by contracts made in the usual way of conducting such a concern. It remains, therefore, to consider what is the extent of the express and implied powers to contract conferred by a mining association based on the cost-book principle upon its directors or manager, and for the fulfilment of which either the whole of the association or each of its adventurers is liable.

Powers of Directors, Agents, &c., to bind Adventurers. To Contract.—The powers of the directors, manager, or other agent of a cost-book association to contract so as to bind a single adventurer or the association are of two kinds. First, *Express Powers*, or those which are contained in the rules or conditions of the association, or to the conferring of which the adventurer has assented, either by personal interference or by subsequent adoption; and, secondly, *Implied Powers*, or those powers which the law acknowledges as incident to office. 1. *Express Powers to Contract.*—Express powers to contract may be given by an adventurer in specially authorizing the directors, &c., to enter into all legal contracts, for the violation of which such adventurer will be liable. And, notwithstanding such express powers to contract be given by the whole association, yet a violation of any contract made in pursuance thereof may, in the absence of special provision to the contrary, or if present, of which the creditor must be shown to have had notice, be visited upon any single adventurer, according to the above-mentioned principle, that each adventurer is liable for the whole debts of the association. 2. *Implied Powers to Contract.*—In order to ascertain to what extent the director, manager, or other agent of a mine conducted upon the cost-book principle can, *impliedly*, i. e. without express power, render a single adventurer or the association liable for his acts, it is necessary to consider the decisions which the law books afford upon this subject; so that by exactly ascertaining the agent's power, it will be in the power of every association, by a skilfully drawn set of rules and conditions, to almost ensure an absolute freedom from responsibility.

Labour and Goods.—A mine agent, unless restrained by the rules of the association, within the knowledge of the creditor, can procure

on the credit of the association, and enter into all such contract for the requisite labour and materials necessary for the maintenance and safe keeping of the works as are sanctioned by the usages of mining, or are within the ordinary course of such association. See *Hawken v. Bourne*, 8 M. & W., 703; *Bourne v. Freeth*, 9 B. & C. 632; S. C. 4, M. & R., 512; *Ralph v. Harvey*, and *Richards v. Harvey*, 1 Q. B. 845; *Northey v. Johnson*, 19 L. T., 104. The in *Dickenson v. Valpy*, 10 B. & C., 128; S. C. 5, M. & R., 126 decided in 1829, Parke B. said that "the directors of a mine have authority to do all that it is usual to do in the management of mining companies;" and again, when addressing himself to the defendant's counsel, he said, "You do not prove any engagement whereby it was stipulated that the directors should have only the limited authority you contend for." The question in that case being whether there was not evidence to go to the jury that the defendant gave the directors an implied authority to do all that directors of mining company usually do for carrying on the concern. In *Fleming v. Hector*, 2 M. & W., 172, the ruling in which would seem to clash against *Dickenson v. Valpy*, the rules of the club were proved, which showed that the authority of the directors was expressly limited. Again, in *Tredwen v. Bourne*, 6 M. & W., 466, Lord Abinger, as to the argument "that a mining company which, as was decided in *Dickenson v. Valpy*, is not necessarily formed with the power to pledge the credit of individual members by the drawing of bills, is also not formed with power to bind each other by dealing on credit," said, "but these are two very different propositions. Whether the directors have such a power must depend upon the general nature of the concern. It is a matter for the jury to decide upon, unless the party gives evidence to show that their authority was expressly limited; and if it had been left to the jury in this case, I think they would not have had much difficulty in saying that it is in the general nature of mining concern to deal on credit for the purpose of carrying on their business. Also, about the year 1841, the following case of *Hawken v. Bourne*, 8 M. & W., 703, was decided. The facts were these:—A company was formed to work the Trewolvas mine in Cornwall, in which the defendant became an adventurer, and took part in its proceeding. The prospectus issued on the formation of the company stated that "all supplies for the mine were to be purchased at cash prices, and no debt was to be incurred;" and the scrip certificates also bore indorsement to the same effect. The plaintiff supplied goods for the necessary working of the mine, on the order of the purser appointed by the directors to manage the mine, which was the customary course in such concerns. The Court held that the defendant was liable to the plaintiff for the price of such goods, notwithstanding the statements in the prospectus and certificate, unless shown that the purser had in fact no authority from the defendant, and that the plaintiff had notice thereof, as the agreement that the directors should not deal on credit was a mere *privie arrangement*, which could not affect the liability of the defendant one of the partners to pay for necessary things supplied for the carrying on of their joint undertaking. The above case of *Hawken v. Bourne* is substantially the same as that of *Tredwen v. Bourne*. In the former case, however, the evidence was somewhat strong to show the defendant interfered with the undertaking. It might, however, be said that the evidence given for the defendant in *Hawken v. Bourne*, inasmuch as it showed a limited authority given by the defendant to deal for ready money only, takes it out of the authority of *Tredwen v. Bourne*. But that evidence makes difference in the legal view of the case. The mine was worked one partner with the defendant's knowledge and for his benefit, and he was a complete partner in the concern; and however prospectus might affect the mutual rights and liabilities of partners *inter se*, yet he is liable as a partner to third persons supplies made in the ordinary course and conduct of the concern where credit is given to such party; but where such credit is given, although he *prima facie* gives such an authority to his partners, yet it seems he is at liberty to show *contra* that he is not in fact give any such authority. Per Parke, B., 8 M. & W. 704. See also *Steigenberger v. Carr*, 3 M. & G., 191; S. C. Scott, n. r. 166; and *Ricketts v. Bennett*, 4 Com. B., 691.

In support of the above doctrine it may be useful and interesting to cite following appropriate constitution, made at a Convocation of Stannators, 2 October, in the second year of the reign of James II., r. 6, first observing that is clearly limited to the case of goods and labour for the purposes of the mine, and does not extend to the raising of money, the issuing of bills of exchange, &c. to do which to bind the association the agent has no implied power, as we shall hereafter show:—

"We do agree, constitute, and ordain, that where there are several adventurers in one tin work, and any of the costs and charges of the said tin work for goods, wages or otherwise, shall be behind and unpaid, the party and parties to whom any money shall be due for goods or wages shall only sue the person or persons who bought or contracted for the said goods, or hired or contracted with labourers to work in the said work, and not any other adventurers. But in the said person or persons that bought the goods, or hired the said labourers, not in arrears of his costs and charges about the said adventure, the other adventurers who are in arrears shall make him satisfaction for whatsoever he recovered against him by such suit, with his own costs and damages; and in the person so sued pay for more than his own costs shall amount unto; he shall have the like remedy to recover what he shall be forced to pay over and above arrears of his own costs incurred, due at the time of such suit brought against him; and the like remedies to be had for the pursers and captains of any work and in case the party or parties that shall be in arrears of their costs after a account, their tin and tin stuff shall be sequestered and remain as security until the matter shall be tried" (Pearce's Stan. Laws, p. 51, 26).

In order that adventurers may be relieved from the responsibility arising from contracts for goods, labour, &c., supplied to the mine they should insist that the rules and conditions of the association shall limit the implied power of the agent to contract to a specific sum, say £50, in one contract, except upon notice to the merchant or other person with whom the contract is made, that the association is formed on the cost-book principle, and also upon specific notice of his limited power to contract. To ensure the due giving of which notices, and as a matter of precaution, the agent should his appointment be required to give security in an ample amount that he will fulfil and conform to the rules, &c., of the association (See post, *Rules and Conditions*).

Raising Money.—When a mining association is in want of money, it generally desires the purser to borrow at interest from bankers upon the deposit of the ore notes of the mine. Such power to borrow must be expressly conferred by all the adventurers upon the purser, &c., otherwise he cannot render the adventure either singly or collectively, liable to repay it; and that whether the money be simply borrowed or raised by the issue of bills, notes or bonds, and although the whole proceeds thereof may have been expended on the mine. This doctrine has been sanctioned judicial determination, it having been distinctly held that it is usual or necessary that the purser, &c., of a mine worked upon the cost-book principle shall have, and has, an implied power to obtain money on the credit of the adventurers. See also the case of *Burmester v. Norris*, 21 L. J. n. s. Ex. r. p. 43.

Bills of Exchange and Promissory Notes.—As the law regards a partnership in mines to be in some sort a partnership in land, there is no principle better acknowledged by the law than that such a partnership has not all the incidents of an ordinary mercantile partnership. Thus it has been held by all the courts of law that the adventurers in a mining concern cannot sign promissory notes nor give bills of exchange so as to bind each other. The nature of their obligations is different, and their implied obligations are different, though in some cases it is useful to apply the principles of ordinary commercial partnerships to their proceedings.—*Featly Bates*, 4 Y. & C., Ex. 191 (1840); *Clark v. Bulmer*, 11 M. & W. 243; *Greenslade v. Dower*, 7 B. & C., 635. The leading case upon

is point is that of *Dickenson v. Valpy* (1829), 10 B. & C., 128; 5 M. & R., 126; S. C. Lloyd and Welsby, 6; in which it is distinctly held that the partners or directors of a mining association cannot bind their copartners by the acceptance of a bill of exchange by force of the necessity of such a power for the carrying on of the business by the usage of similar establishments. This doctrine having been confirmed by many cases, may be considered as firmly established. Also in *Brown v. Byers*, 16 M. & W., 252; and *Ricketts v. Bennett*, 4 Com. B., 689, it was held that if it be intended to confer a power of binding the association by bills of exchange, &c., the deed on which the association is based should confer such power in proper and unequivocal terms, as it will be construed strictly. See also *Ducarry v. Gill*, M. & M., 450; S. C., C. & P. 121. But notwithstanding there is no express power given to draw bills of exchange, yet an adventurer may be rendered liable by his express assent to the drawing of it—4 Com. B., 689. A quarry is within the same rule of law as to the non-existence of an implied power to draw bills of exchange—*Thicknesse v. Brownlow*, 2 C. & L., 425.

Borrowing Money.—We have seen that the members of a mining association have no implied legal power to bind their co-partners by the making of bills of exchange or promissory notes, and that an express power so to do will be construed strictly, and must be accurately followed. We now proceed to detail those decisions which settle that neither the managing agent nor resident directors have any implied power to borrow money for the uses of the mine. Thus, in the year 1841 it was clearly held in the Court of Exchequer in the case of *Hawthorne v. Bourne*, 7 M. & W., 595, that a resident agent, appointed by the directors of a mining company to manage a mine, has not an implied authority from the adventurers to borrow money upon their credit, in order to pay the arrears of wages due to the labourers in the mine who had obtained warrants of distress upon the materials belonging to the mine, for the satisfaction of such arrears, nor in any other case of necessity however pressing. This is a remarkably strong case; because, unless the wages had been paid, the interests of the adventurers would have been most materially prejudiced. See also *Lanyon v. Davey*, 11 M. & W., 218.

The above cases were followed early in 1847 by that of *Brown v. Byers*, 16 M. & W., 252, in which it was held that a managing director, who is represented at a meeting of directors by proxy, is bound only as to purposes within the scope of the deed, and is not bound by a resolution of the directors present at such meeting, authorizing the resident director to borrow money from a banker, or to accept bills of exchange for the company. Shortly after the decision of *Brown v. Byers*, by the Court of Exchequer, the case of *Ricketts v. Bennett*, 4 Com. B. 686, S. C. 17 L. J. n. s. p. 17, was decided by the Court of C. P., which clearly silences all further argument and dispute upon the point, by emphatically declaring that one of several co-adventurers in a mining association is not, as such, any authority to pledge the credit of the general body for money borrowed for the purposes of the concern, and the fact that the borrowing adventurer has the general management of the mine makes no difference, in the absence of circumstances from which an implied authority for that purpose can be inferred. The judgment is a most elaborate and luminous one, and will amply repay a careful perusal. This doctrine has also been fully supported by the Court of Exchequer, in the late case of *Burmester v. Norris*, L. J. n. s., Ex. p. 43, S. C. 6 Ex. Rep. 796; and notwithstanding the company in that case was joint-stock, yet as the cost-book cases mentioned in the foregoing pages were those upon which the court based its judgment, it may be properly cited here. The case was as follows:—By the deed of settlement under which the mining company was carried on, a capital of £50,000 was provided, and there were powers to create new shares, and to alter the provisions of the deed by the vote of a special general meeting. There was also a clause, "That the affairs and business of the company shall be under the control of the directors, of whom there shall not be less than five or more than nine, and three of them shall at all meetings be directors, and for all purposes, be competent to act." The court held that by law the directors of a mining company have no implied power or authority to borrow money on the credit of the company, for the purposes of carrying on the mines or for any other purpose, however useful or necessary to the objects for which the company was formed. The court in giving judgment, per Alderson, B., said, "This was a motion for a new trial, and was argued before us. The case was tried before my Brother Platt, and the question arose as to whether or not the committee of directors by whom certain German mines were to be carried on had the power of borrowing; and it appeared from the circumstances of the case, and the jury found that in their opinion it was necessary, for the purpose of carrying on the mines, that the money should be borrowed; but we are of opinion that notwithstanding that finding, the company could not have any such power as that of borrowing money. The mines were to be worked by a company, and the company was to levy a large sum of money with which to carry on that concern, amounting to about £50,000. There is in the deed of settlement, by which the directors were empowered to act, a power in very general terms: it is 'That the affairs and business of the company shall be under the sole and entire control of the directors, of whom there shall not be less than five or more than nine, and three of them shall form meetings of the directors, and shall for all purposes be competent to act.' Now, no doubt, these are very large words; but they must be taken in conjunction with the general words and purport of the deed, which confine the concern to the carrying on of the mines by paying a large sum of money as capital by which the mines are to be worked for the benefit of the company. It follows therefore that the directors had the whole, sole, complete, exclusive, and entire control, only with respect to the management of the company by means of the monies which were levied, and that they had no power whatever to borrow money. It would make a vast difference to the subscribers, if such a power contained in these words were to be construed as imposing an unlimited responsibility on the parties who have entered into the concern beyond the capital which they proposed themselves to have subscribed, and with which capital the concern was entirely to be carried on. We think, therefore, my Brother Platt was wrong in leaving the point to the jury, and that though the jury might, in their opinion, think it necessary for the purpose of carrying on the mine, and convenient, that the money should be borrowed, yet that could not be done without the consent of all the subscribers; and with the consent of all the subscribers, no doubt it might be done: that would be a totally different footing."

Committee of Management.—Although the adventurers of a cost-book mine possess the sole and whole right and power of management, yet it would be practically inconvenient that they should all directly and personally superintend the adventure. In order, therefore, to avoid that inconvenience, and at the same time to ensure that the mine be conducted according to the views of the adventurers, it was, so early as the 26th October, 2 Jac. 2 (Pearce's *n. Laws*, p. 51) ordained that the will of the majority should control the working. Of late years the management is usually, at a general meeting of the adventurers, delegated either to the purser more frequently to a committee of management, which, although possible to the adventurers, yet has little more than a mere ministerial capacity, it being controllable by that body. The committee usually appoints a secretary, who acts as their clerk, and carries out their instructions. It is unusual, nor is it necessary, that there should be a committee of management and also a purser, unless some particular duties are assigned to each. Among

the specific duties of the committee of management, it has to take charge of the mine and its produce; the latter of which it sells, and, after paying all the costs and the lord's dues (if any), carries the profit (if any) to the credit of the adventurers, who should be paid, and receive their quota thereof proportionably with the number of their doles or shares in the association. In all important matters within its office, it administers the affairs of the adventurers under their control. Its general and ordinary duties are as various as the concerns of the mine, the chief being, either by itself or secretary, to keep the cost book, and fairly enter therein, as they arise, all the mine accounts, minutes of all proceedings, names of adventurers, transfers of shares, &c. It also contracts for mine materials, directs and superintends the workings, receives reports thereon, and borrows (if that power be given to it), receives, and pays all monies, and transacts all the commercial affairs of the mine. In order further to show that, according to the cost-book principle, the duties of the committee of management are chiefly ministerial, it may be remarked that it cannot alter the rules or conditions, nor can it make calls, or do any other acts but those specially delegated to it (see *Rules and Conditions*, post). Indeed the committee of management is entirely controlled by the rules and conditions and bye-laws of association, which must be adhered to on all occasions, otherwise the acts of the committee will be void, and may in some cases be deemed fraudulent—*Moore v. Hammond*, 6 B. & C. 456, S. C. 9 D. & R. 481.

Auditors.—No cost-book mine should be without auditors; one to be in the election of the committee of management, and one in that of the adventurers. The process of audit should be similar to that given in the bye-laws, which, together with bi-monthly meetings and a publication of the accounts, would effectually prevent extravagance, ruinous liability, fraud, or mismanagement. Notwithstanding repetition, it is again urged that no cost-book mine should be without auditors. To save expense, they may be elected from among the adventurers.

Purser.—As a general rule, a committee of management is an institution in lieu of a purser, their duties being for the most part the same. If the association have a committee of management, such committee acts by its secretary. The subjoined rules are, however, framed for both a committee and purser.

Meetings.—Because "short accounts make long friends," and also that fortnightly, or, at most, bi-monthly meetings are adopted in Cornwall, it is urged that cost-book mines should audit and settle their accounts at short intervals, so that there shall be no time for much bad management. The keys to the prosperity of a cost-book mine, so far as management is concerned, are auditors, and at furthest bi-monthly meetings. The meetings of adventurers are of two kinds: 1, *general*; and 2, *special*. The former, for the general purposes of the association, should not be less than bi-monthly; the latter as often as any accidental or specific purpose not within the ordinary concerns of the association shall require.

Votes.—The votes of the adventurers at their meetings should, according to the time-hallowed cost-book principle, count, not by voices, but by shares; and a majority should have power to determine, &c.

SHARES.

This portion of our subject will be found divided as follows:—

Dividends.—If the affairs of the association are so prosperous as to realize a surplus after paying all expenses, such surplus is usually divided among and paid to the adventurers ratably with their respective interests. Sometimes, however, when the surplus is small and the mine kindly, such surplus is, by resolution, carried over, to be dealt with at the next meeting of the adventurers.

Relinquishment.—Closely connected with the succeeding question of transfer of shares, is that of relinquishment of shares, which is proper to the cost-book principle. It is that any adventurer may (if there be a rule and condition to that effect), by giving notice in writing to the secretary or purser to that effect, and on paying his proportion of the debts and costs incurred for works, or continuation of works determined on, at any time relinquish his shares and interest in the association, whereupon he is entitled to valuation and payment of his fair proportion of the value of the materials, &c., &c. This object is expressed in the rules by the phrase, "on payment of the clear liability," &c. (see *Arundell v. Atwell*, cor. Wood V. C., E. T. 1853; *Northey v. Johnson*, 19 L. T., 104).

Transfer.—The cost-book principle, in common with other mining associations, acknowledges the right of each adventurer to freely dispose of his shares, and thus rid himself of future liability. *Arundell v. Atwell*, cor. Wood, V.-C., E. T. 1853. The remaining adventurers having no power to assume the right of *delectus personae* of the transferee. Also one of the main peculiarities of the cost-book principle is the extremely simple and easy means it affords for the transfer of shares. Indeed, it may be said that the only mode by which shares in such associations are transferred is by the mere substitution of the name of the transferee for that of the transferor in the cost book. The authority for such substitution differs with the constitution of each association, but ordinarily is either the deposit, in the office of the association, of a formal deed of assignment—*Vice v. Anson* (Lady) *ante*, and *Tredwen v. Bourne*, 6 M. & W. 461—or other conveyance, or merely a written or verbal direction to the purser or bookkeeper from the transferor, that he has sold such shares to the transferee, and a like verbal or written acceptance of the shares by the transferee upon the same terms as the transferor held them. Upon such notice, together with the certificate of the assigned shares, being sent to the purser, it becomes his duty to enter and register the name of the transferee in the cost book, and certify to him that he has so done. So that in the result the entry of a party's name in the cost book is evidence of his title to the shares set opposite to it, and is the only proof which in Cornwall it is customary to require (see *Reynolds v. Bassett ante*, and *Curling v. Flight*, 5 Hare, 242). This accomplished, the future liability of the transferor immediately ceases to the extent of his interest disposed of, and that of the transferee commences. This doctrine of the cesser of liability has been to some extent confirmed by the Court of Q. B. in the recent case of *Northey v. Johnson*, 19 L. T., 104, the facts of which were these:—A creditor of a cost-book mine for goods supplied brought his action for their price against the defendant, an adventurer. It appeared that the goods had been ordered by the superintendent after the defendant had verbally agreed to transfer his shares to another adventurer, and had withdrawn from the partnership, into which he had entered by verbal agreement only. The learned judge directed the jury, that if before the goods were ordered the defendant had agreed by word of mouth to transfer his shares to another shareholder, who had agreed to take them, or if he had given notice to the rest of the adventurers that he relinquished his shares to them, they had no longer any authority to pledge his credit, which the court above held to be no misdirection.

Registration.—The cost-book principle, as practised in Cornwall, certainly requires that all transfers of shares shall be duly registered in the cost book, such an act being rendered practically necessary in order to vote, receive dividends, or interfere with the management on any necessary occasion. Such registration was made a chief feature of the principle (*Tippet v. Johns*), for the purpose of enforcing calls, and therefore "non-registration" is clearly contrary to the correct notion of the cost-book principle. Thus in *Reynolds v. Bassett* (tried on the Equity side of the Vice-Warden Stannary Court), it was held that no transfer of a share is legally good unless the same be registered in the cost book, because such an entry alone constitutes a complete and legal transfer; and *Tippet v.*

Johns decided that the transferee of shares must sign the cost book either by himself or his properly-constituted attorney. Of late years, however, even within Cornwall, several newly-started cost-book companies have bid for public favour, on the ground that "the shares are transferable without registration" (see *post*, *Prospectus*). That such an omission is illegal *per se*, or that a non-register company is therefore not a cost-book company, it would no doubt be very difficult to maintain; but that such a clause is contrary to the cost-book principle, is inconvenient, delusive, and inimical to the best interests of an honest and responsible proprietary, it would be very easy to demonstrate. At all events, cautious capitalists being at the same time honourable men, do not in general consider that such a clause on the one hand either advances or protects their interests, or, on the other, adds to the dignified position of their association. On one point, however, non-registration has a decidedly injurious tendency, and that is on the occasion of a sale of shares to a purchaser, who repents of his bargain, and refuses to complete. In such a case, if the vendor have not clear and credible evidence that the purchaser was cognisant of the non-registration, and notwithstanding agreed to take the shares, he (the purchaser) cannot be compelled to complete his purchase—which, if prices fall, may be of serious moment to the vendor. This point was solemnly decided in the very valuable case of *Curling v. Flight*, 5 Hare 242, which, however, went beyond the above point as to title between the vendor and purchaser, and settled that the vendor was bound also to show some title in himself and his co-adventurers to the mine, shares of which he had contracted to sell. The case, so far as regards the advantage of registration, was this: On a contract for the sale of one share in a mine, described as "1-192nd part or half-share of the Tresavean mine, in the district of Gwennap, in the county of Cornwall." The Court of Chancery held that it was incumbent on, and necessary for, the vendor to show a title to the specified share of the mine, as between himself and his co-adventurers, which he was fortunately enabled to do by means of the registration of the transfers in the cost book, and by extracts from the purser's books and cost book, certifying the right and interest of the vendor, and that his name stood registered as the proprietor of the shares comprised in the contract. Now if the Tresavean mine had been established on the condition that "the shares were transferable without registration," it must be conceded that the vendor would not have been able to have made out his title from the authentic sources he did, and that the judgment of the court must have been adverse to him on this point.

Forfeiture.—A power to forfeit shares or non-payment of calls, &c., is usually contained in the rules of a cost-book association. Sometimes such power is subject to a power of confirmation at the next or any subsequent general meeting. Instead of exercising the power to forfeit, it is usual for a creditor of the mine to sue such defaulter (*Arundell v. Atwell*, cor. Wood, V.-C., E. T. 1853). The purser may also sue him for the amount of calls due. If, however, the association proceed upon the clause for forfeiture, no notice of such proceeding need be given to the adventurer, whose shares are forfeited (*Stewart v. The Anglo-Californian G. M. Company*, 21. L. J. n. s., p. 393. Q. B.).

DISSOLVING AND WINDING-UP ASSOCIATION.

A mining association, established on the cost-book principle, may be dissolved and wound up either with or against the consent of the adventurers.

In the former case, this object is attained by following the directions in the rules and conditions for that purpose contained. It is usual for the rules to require that a resolution to dissolve, though passed at a special general meeting of the association, shall, before it is efficacious, be confirmed at a subsequent meeting (*Brown v. Byers*, 16 M. & W., 255), the importance of the step rendering such a precaution necessary. Should the subsequent meeting confirm the resolution for dissolution, notice thereof should be inserted in the *London Gazette* (*Fereday v. Wightwick Tamlyn*, 250, 251). The mine is abandoned, the properties valued and disposed of, the liabilities satisfied, and the surplus, if any, divided amongst the adventurers.

In the latter case—that is, when the dissolution and winding-up is sought to be enforced against the wish of the association—that object cannot, as a matter of course, be obtained on the mere will and application of an adventurer (*Arundell v. Atwell*, cor. Wood, V.-C., E. T., 1853). There must be special facts to induce the Court to take so extreme a step. If, however, such special facts exist, a dissolution may be obtained under the winding-up acts 11 & 12 Vict., c. 45; by the second section of which it is enacted that "all associations or companies formed for the purposes of working mines or minerals shall be liable to the operation of that act; provided, nevertheless, that nothing in such act contained shall affect the jurisdiction of the Court of Stannaries in Cornwall." Upon this section it has been decided that an association framed on the cost-book principle, but formed before the passing of the Joint Stock Companies' Winding-up Act, 11 & 12 Vict., c. 45, is not within its operation; neither is a solvent company (see also *Wheal Lovell Mining Company*, 1 H. & Tw., 125; S. C. 1 M. N. & G., 1; S. C., 13 Jur., 133).

In order, however, to wind up a mining association within the above act, it is necessary to present a petition to one of the Courts of Chancery, praying a dissolution of the association; upon which the Court, in its discretion, will make an order.

If, however, such an order be improvidently made, it may either be rescinded or discharged on appeal before the Lord Chancellor (1 H. & T., 125, *ante*).

Mining companies on the cost-book principle are also within the winding-up act 12 & 13 Vict., c. 108, notwithstanding they are expressly excluded from the operation of the Joint Stock Companies' Registration Act, and have no other legislative enactments in this respect immediately relating to them. The 12 & 13 V., c. 108, s. 1, enacts "that the act shall apply to all companies whereof the partners or associates are not less than seven in number. Provided, nevertheless, that nothing herein contained shall affect the jurisdiction of the Court of Stannaries in Cornwall; and that nothing in this act, nor in any act herein referred to or contained, shall extend or be construed to extend to any partnership, association, or company formed for the working of mines on the principle commonly called the cost-book principle within the said stannaries and jurisdiction of the said Court, unless the owner or owners of one-tenth in value of the shares in any such mine as shall appear on the cost book shall present a petition to the Lord Chancellor, &c., for dissolution and winding-up."

Above has been attempted an analytical account of the principles and chief features of the cost-book principle. The principle has nothing in it contrary to the common law, its rules being perfectly legal regulations found to be convenient for the purposes of mining association. We now proceed to a consideration of the *Rules and Conditions* themselves.

SEC. V.—A CODE OF RULES AND CONDITIONS, BEING AND FORMING THE CONSTITUTION OF A COST-BOOK ASSOCIATION.

THE COST BOOK OF THE MINING ASSOCIATION.

At a meeting of the adventurers of this Mining Association, held at [Turo] on the day of 18—, it was, for the purpose of establishing and regulating the Mining Association hereby formed, and in order accurately to ascertain, define, and settle the rights, interests, and liabilities in respect thereof, of the several parties, whether adventurers or others interested therein, resolved, declared, and agreed

by and between the several persons whose names are hereunto set and affixed, on behalf of themselves and of all other persons who shall hereafter become adventurers, that such association shall be henceforth entirely constituted and governed by and subject to the code of rules and conditions hereunder written, and none others; subject, however, to the provisions hereinafter contained for altering and modifying the same, and of and concerning the bye laws.

Formation and Name of Association.—That the adventurers whose signatures are hereunto attached, and all persons who shall hereafter become registered adventurers in the association hereby formed, shall, so long as they shall be adventurers, form, be, and continue until dissolved, an association under the name, style, or title of "The Mining Association."

Business of Association.—That the business and objects of this association shall be (here insert the objects of the association), and such other objects and concerns as the adventurers at a special general meeting to be duly convened for that purpose shall declare.

Place of Business.—That the principal place or office for carrying on the objects and concerns of this association shall be at [with a branch office at]

Capital.—That the present capital of this association shall consist of the sum of £ sterling, which shall be considered as divided into shares of £ each, and be numbered from 1 to both inclusive; which said shares are now held by the several persons, adventurers, whose names are hereunto subscribed; and that such capital shall not be increased [or of, such further sum of money as shall or may be determined and resolved by the adventurers at a special general meeting to be duly convened for that purpose to be raised by an issue and sale of new shares, or in such other manner as the adventurers shall then duly declare].

ADVENTURERS.

Certificates of Shares.—That certificates shall be issued in the form hereunto annexed, numbered respectively 1 to ; each certificate to represent one part or share in the capital, property, and concerns of the association.

Form of Certificate:—Certificate of Proprietorship of Shares —; Mining Association, conducted on the Cost Book Principle.

No.] This is to certify, that adventurer , of , in the county of , is the proprietor of the above part or share in the above association, and in the capital, stock, and credits thereof; that the said is duly registered in the Cost Book (Share Register Book, p.) as the proprietor of such part or share; and that upon such part or share all calls and payments to this date have been duly received by the association.

Dated this day of , 18--.

A. B. } Committee of
C. D. } management,
E. F. } or purser.

Witness (Secretary) N.B.—This certificate must be delivered up for exchange on transfer, and no transfer is valid unless entered in the Cost Book, and duly certified.

Registration.—That each of the said certificates shall entitle and oblige the holder thereof to be registered in the Cost Book (Share Register Book) of the association as an adventurer and the proprietor thereof; provided always that the association shall not be bound so to register any holder of certificate except upon his written request to the [purser] of the association for the time being; and provided always, that if such holder shall not require himself to be duly registered an adventurer and proprietor within thirty clear days from the date of his certificate, he shall be deemed to have relinquished all claims he may have had to be so registered; and the title and interest in respect of which he had such claim may be dealt with by the adventurers in such manner as they at a special general meeting duly convened for that purpose shall declare.

Disabilities.—That no person now an adventurer, or hereafter to become interested in this association by purchase or otherwise, shall be entitled to any of the powers, rights, or privileges of an adventurer, or be in any way interested or concerned in the management of the affairs of this association in respect of any share or shares, whose title to which shall not have been duly examined, allowed, or registered, and who shall not have signed the Cost Book (Share Register Book), and the Rules and Conditions of this association.

Privileges.—Every adventurer on being registered as a proprietor on signing the Rules and Conditions of this association as entered in the Cost Book, and paying up all calls and payments due in respect of his shares, shall be entitled, amongst other privileges—1. To be present either personally or by proxy at all ordinary, general, and special general meetings of the association, upon production by or for him of the certificate of any registered share held by him; provided always that such proxy shall be a registered adventurer, and not being a member of the committee of management, auditor, purser, or other officer of this association; and that such proxy be in writing; and provided also that such authority to vote by proxy shall be in writing, and shall be effective and available only for the particular meeting for which it shall purport to have been given, or for any adjournment thereof, and shall be delivered up to the association at the time the vote is given in respect thereof. 2. To take part in the discussions thereof. 3. To one vote in the determination of any question thereat; and that either in person or by duly appointed proxy, in respect of every single registered share held by and produced by or for him, upon which all calls then due shall have been duly paid. 4. To vote as last aforesaid in the choice of committee of management, auditor, purser, captain, or other officers. 5. To demand a certificate of his title to shares on the payment of 1s. for each. 6. To participate in the profits of the association.

COMMITTEE OF MANAGEMENT.

Appointment.—That the nomination and appointment of the committee of management shall, except in the event of an occasional vacancy as hereinafter mentioned, be at all times the sole privilege of the adventurers to be exercised in special general meeting duly convened for that purpose. That such committee as to its duties shall be under the immediate control and direction of the adventurers assembled as aforesaid. That A. B. C. D. E. F. and G. shall be and form the first members of the committee of management, who shall continue in office until they respectively shall become disqualified, or other members shall be elected in their place in manner hereinafter mentioned.

Duration of Office.—That the office of committee-man for the time being shall yearly expire and determine on the day of ; provided always that any or all the members thereof may be re-elected by the adventurers at a special general meeting to be duly convened for that purpose.

Retirement.—That any member of such committee shall be at liberty to retire therefrom after the expiration of four weeks from service of notice in writing on the purser of such his intention to retire.

Occasional Vacancy.—That whenever an occasional vacancy shall happen in the committee from what cause soever, the remaining members thereof may in the manner stated in the bye-laws forthwith fill up such vacancy by electing some duly registered adventurer duly qualified as hereinafter mentioned, who shall continue in office until the next special general meeting of the adventurers for the general election of committee, when such election shall be confirmed or otherwise.

Qualification.—That the committee of management shall consist of not less than three or more than seven members, to be elected from the duly registered adventurers of this association; and each member of such committee shall, at the time of his election, and during his continuance in office, hold shares of this association at the least, in his own right, free from incumbrances; and shall at his appointment and re-appointment certify in writing that he so holds; which certificate shall be carefully preserved, and a minute that it has been so given shall be duly recorded by the purser.

Disabilities.—That the committee of management, upon pain of forfeiture of office, are prohibited (except with the sanction of the adventurers at a special general meeting duly convened for that purpose) from doing or engaging, either directly or indirectly, in any of the following acts, namely:—From purchasing or selling shares on their own account; from borrowing or lending the money of the association from or to each other, or any officer thereof; from making or being concerned or interested in any contract with the association whereby a benefit may or by possibility can accrue to them; from entering into any contract

above the sum of £ with any merchant or other person contracting in respect of any of the concerns of this association, without informing such merchant or other person that this association is based on the cost-book principle, also of the existence of this rule, and that no adventurer shall be liable in respect of such contract except to an amount proportionate with the amount of his interest in this association; provided always that if any one of the said committee shall so contract without giving such notice, he shall forfeit and pay to the adventurers the sum of £ , for each default, to be sued for in the name of the purser; provided also that this rule be printed at the back of every share certificate, and a copy thereof be printed in a bold type at least one inch in length on white paper, and be affixed on a conspicuous part of an inner wall of the chief office of business of this association.

Powers.—That the committee of management shall, in addition to the general duties vested in them by these or any future rules and conditions and the bye-laws, have power to appoint or dismiss all officers and servants except the purser and the adventurers' auditor; to fix their remuneration or salary; to take from all officers the necessary security for the due fulfilment of their duties, and to contract for and do all necessary acts in furtherance of the business and objects of this association, so that they be in strict conformity with these Rules and Conditions and the Bye-laws, and with the cost-book principle. Provided always that all such acts of the committee may be rescinded so far as they legally can, by the adventurers, at a special general meeting, to be duly convened for that purpose; and provided always that the committee shall not have power to renew, dispose of, or in any way to interfere with the grants, demises, setts, or leases of this association.

Quorum.—That all the powers and duties of the committee may be exercised by [three] or more of its members, present at any duly convened meeting of such committee.

Votes.—That all questions within the cognizance of the committee shall be decided by a majority of votes of the members present, each having one vote only; and in case of an equality of votes, the chairman shall have a casting vote, in addition to his own vote.

TRUSTEES.

Appointment.—That the committee of management for the time being are empowered from time to time to elect and appoint three persons, either adventurers or strangers, to be the trustees of the association, and that A. B. and C. shall be the first trustees.

Powers.—That all mines, lands, tenements, and hereditaments which shall be granted, demised, set, leased or held to or by this association, shall be conveyed to and held by such trustees for and on behalf of this association.

Indemnity.—That this association hereby engages to and does fully indemnify such trustees against all losses, costs, expenses, or damages whatsoever, which they may sustain or be put to by reason of their trusteeship, unless such losses, costs, expenses, or damages shall arise by or through the proper and wilful neglect or default of the said trustees.

AUDITORS.

Appointment and Qualification.—That for the purpose of auditing the accounts of this association, two persons, having the same qualifications and subject to the same disqualifications as are hereinbefore contained in respect of the committee of management, shall be annually elected at the time and for the same period of time as the said committee of management; the one to be elected by the committee of management for the time being, and the other by the adventurers at a special general meeting to be duly convened for that purpose; and in case of the death, resignation, or dismissal of such last-mentioned auditor, the adventurers shall from time to time elect another at a subsequent special general meeting to be duly convened for that purpose.

PURSER.

Appointment and Removal.—That the nomination and appointment to and removal from the office of purser, and also his remuneration, shall be at all times the sole privilege of the adventurers, exercisable by them at a special general meeting to be duly convened for that purpose.

Duties and Duration of Office.—That the purser, as to the duties of his office, shall be under the immediate control of the committee of management, subject to the general control and direction of the adventurers. That the duration of office of any purser may be determined at the mere will and pleasure of the adventurers, to be by them expressed at a special general meeting to be duly convened for that purpose.

Death, Resignation, &c.—That upon the death, resignation, or dismissal of any purser, the adventurers shall elect another person to that office at a special general meeting to be duly convened for that purpose.

MEETINGS.

Advertisements and Notices.—That all notices to convene ordinary general or ordinary special meetings of the adventurers shall be advertised once at least in the "Times" newspaper and "Mining Journal," ten days before the day of meeting; that a notice thereof, either written or printed, or partly written and partly printed, shall be delivered, sent, or posted by the purser, seven clear days before such day of meeting, to the address of each adventurer, as stated in the Cost Book (Share Register Book, and that notice so sent shall be effectual for every purpose. Provided always that such advertisement and notice shall specify the time and place of meeting, and in the case of a special general meeting shall also specify the special object thereof, and if the same be called by an adventurer, shall be advertised and delivered, sent or posted, and signed by such adventurer so calling the same. That an ordinary general and special general meeting may be held simultaneously, provided always that due notice be given, as hereinbefore required, of the special matters to be transacted thereat.

Register of Voters.—That previously to every ordinary general or special general meeting of the adventurers, the purser shall prepare from the Cost Book, and there produce for the free inspection of the adventurers, a correct list, in an alphabetical and tabular form, of the names and places of residence, and additions of all the registered adventurers entitled to vote at such meeting; and of the number of shares which such adventurer holds, and the distinctive numbers thereof; and also a similar alphabetical list of the adventurers who may be in arrears for calls, and of the amount thereof, and of the distinctive numbers of the shares upon which such calls shall not have been paid, which lists shall respectively, at the foot thereof, be dated by the purser, and certified by him to be a correct list and statement of the matters therein contained, to the best of his knowledge, information, and belief, for the day on which it bears date.

Documents, &c.—That the adventurers at all meetings, whether ordinary general or special general, shall have laid before them by the committee, purser, and other officers, the Cost Book, and also clear, true, and explicit statements of all accounts, contracts, documents, debts, liabilities, assets, vouchers, arrears of calls, financial condition of association, and officer's reports having any reference to the business before such meetings.

Voting.—That at all meetings, whether ordinary general or special general, all questions shall be decided, and the association bound by a simple majority of votes, one for each share; the chairman of the meeting to have a casting vote, in addition to his own vote.

Adjournment.—That any meeting, whether ordinary general or special general, may adjourn from time to time, as may be deemed expedient.

ORDINARY GENERAL MEETINGS OF ADVENTURERS.

When and where to be holden, and how convened.—That it be the duty of the committee of management or purser to duly convene six ordinary general meetings of the adventurers in each year, to be held during the months of [February, April, June, August, October, and December], either at the principal place of business, in the mine, or elsewhere, in the discretion of the committee or purser; and at such meetings a chairman shall be appointed by the adventurers. Provided always that full minutes of such meetings shall be duly entered in the Cost Book (Meeting Book) by the purser, and be signed either by such chairman, or by the majority in value of the registered adventurers present.

Powers.—That, in addition to the business to be transacted at ordinary general meetings of adventurers prescribed by the Rules and Conditions and Bye-laws of this association, such ordinary general meetings shall have the sole power to entertain, consider, and determine upon

all matters relative to—the financial position of the association, except the making of calls; the general future proceedings and operations of the association, except the making alteration, suspension, or rescission of the Rules and Conditions and Bye-laws and the forfeiture of shares; the declaration of dividends out of surplus profits; and, generally to entertain and determine all other questions, matters, and things, and to receive, discuss, and pass all accounts, balance-sheets, and reports relating or having reference to the above matters.

SPECIAL GENERAL MEETING.

When and where to be holden, and how convened.—That any duly registered adventurer or adventurers holding not less than shares, or the committee of management or purser, are hereby empowered to duly call a special general meeting of the adventurers, either at the principal place of business or the mine, or elsewhere, in the discretion of the adventurer or adventurers, committee or purser; and at such meeting a chairman shall be appointed. Provided always that full minutes of such meetings shall be duly entered in the Cost-Book (Meeting-Book) by the purser, and be signed either by such chairman or by the majority in value of the registered adventurers present.

Powers.—That, in addition to the business to be transacted at special general meetings of adventurers prescribed by the Rules and Conditions and Bye-laws of this association, such special general meetings shall have the sole power to entertain, consider, and determine upon all matters relative to the change of name, business, and objects and capital of this association; the making of necessary calls, so that they do not exceed the certified and estimated expenditure for the succeeding two months, in addition to the discharge of existing liabilities; the making alteration, suspension, and rescission of the Rules and Conditions and Bye-laws; the forfeiture and disposal of shares; the issue and disposal of additional shares; the appointment, reappointment, confirmation, or dismissal of any member of the committee of management, purser, auditor, agent, or other officer or servant of this association, and to vary the number thereof, and to fix their remuneration; and generally to entertain and determine all other questions, matters, and things; and to receive, discuss, and pass all accounts, balance-sheets, and reports having reference to the above matters.

PROPERTY OF, AND PAYMENTS BY, ASSOCIATION.

That all monies and securities for money be, as soon as received deposited with the bankers of the association; that all payments for the undertaking be made by the purser or bankers of the association, but that no payment be made by such bankers without a check, signed by two at least of the members of the committee at a meeting, and countersigned by the purser.

SHARES.

Calls.—That the amount of any call, duly made as aforesaid, upon each share be deemed when made, a debt due from the owner of such share to the purser, which he is hereby authorized to sue for and recover in the superior courts of common law or in the county courts; and that in any action or plaint for the recovery of such debt, it shall be alone sufficient to entitle the purser to a verdict to produce the Cost-Book duly signed authorizing such call, and that the defendant is registered therein and of the number of shares held by him. Provided always that no defendant shall set up his partnership with the purser by plea or otherwise as a defence to such action.

Dividends.—That the first dividend shall be made and declared so soon as a clear profit of £5 per cent. shall have been realized, and subsequently as and when there shall accrue a like accumulation; so that the same be not declared oftener than at every ordinary general meeting. That all dividends payable on the shares of the association shall be payable to the adventurers registered in the Cost-Book, whose receipt shall be a sufficient discharge to the association for the amount of such dividends.

Relinquishment of.—That any registered adventurer, except the members of the committee of management for the time being, shall be entitled at any time to relinquish his shares, to withdraw from the association, and to determine his interest and responsibility in or on account of its affairs, by leaving at the office of the association with the purser written notice to that effect; and by depositing with him the certificate of shares held by him, and also a release from all his claims and demands on the association in respect of such shares. Provided always that no adventurer shall be privileged to determine his responsibility as aforesaid until he shall have fully borne, paid, and satisfied all calls and payments owing in respect of such shares, and also his just proportion of the clear liabilities of the association up to and inclusive of the day of the service of such notice and deposit of certificates and release, whichever shall last happen; up to which time he shall be entitled to his proportion of the properties and credits of the association.

Transfer.—That any adventurer shall be at liberty at any time freely to transfer the whole of any one or more of his shares, upon which all calls and payments have been duly made, on giving notice thereof in writing to the purser in the form or to the effect following; and procuring the transferee of such shares, either by himself or his properly constituted agent, to sign the Cost-Book; whereupon such transferee shall be entitled (on payment of 1s.), on behalf of the association, to require the purser to register him in the Cost-Book as the owner of such shares; and on payment of 1s., also on behalf of the association, to give him a certificate of such registration; which notice, signature of Cost Book, and registration shall be alone sufficient to make such transfer good and effectual in law. Provided always that the responsibility of the transfer in respect of the concerns of the association shall not cease until he shall have fully borne, paid, and satisfied his just proportion of the clear liabilities of such association up to and inclusive of the day of the registration of the transferee and his signature of the Cost-Book, whichever shall last happen.

Form of Certificate of Transfer of Share, and Acknowledgment of Acceptance by Transferee.

— Mining Association, conducted on the Cost-Book Principle.

No.] To Mr. , of , purser of the Mining Association.

I (transferor) for the consideration named and expressed in deed of transfer, bearing the day of , do hereby certify that have absolutely assigned, sold and transferred to (transferee) part or share of and in the above association, with a like part or share of and in all engines, machinery, gear, tools, tackle, materials, ore, halvans, monies, and credits in the purser's, treasurer's, and banker's hands, and all other the credits and appurtenances to the said association belonging, together with all and singular the dividends, bonuses, and advantages to be henceforth declared and payable upon or in respect of the said parts or shares, and all interest, profit, right, privileges, and advantages whatsoever incident thereto, or to be derived therefrom, and all the estate, right, title, and interest of me the said (transferor) in and to the same part or share belonging. To hold the same unto the said (transferee), his executors, administrators, and assigns, subject to the same rules, orders, and restrictions, and on the same conditions as I held the same immediately before the execution hereof. And I do also certify that this shall be your sufficient authority for transferring such part or share into the name of the said (transferee). Dated the day of , 185 .

Witness to the signature of the above-named, A. B. C. D.

A. B.

I, the said (transferee), do hereby accept and take the said shares, subject to the same rules, orders, restrictions, and conditions. Dated the day of , 185 .

Witness to the signature of the above-named, E. F. G. H.

E. F.

Forfeiture.—That if any call or claim upon any share shall remain unpaid for the space of fourteen days after the time fixed for payment of the same, such share may, at any special general meeting of the association to be duly convened for that purpose, be declared to be and thereupon be thenceforth absolutely forfeited to the association, and be at its

* The Court of Exchequer, in giving judgment in Toller v. Lee, 4 Ex. Rep., 232, adjudged that it was clear that such a document as the above did not require a stamp of £1 10s., as coming within the statute 55 George III., c. 184, sched. pt. 1. That it was evidence against the defendant of there being some other deed of transfer, if that were necessary to make him liable; for whatever a party admits may be used as evidence against him, although the jury are to be the judges of its value.

discretionary disposal at the same or any subsequent special general meeting.

Cost Book.—That the Cost Book be kept by the purser at the place of business of the association, and be at all reasonable times open to the inspection and examination of any registered adventurer free of charge.

Accounts.—That the general accounts of the current expenses of the association shall be duly made up to the last day of the week prior to the audit thereof by the auditors.

Place of Custody of Books, Accounts, &c.—That at the principal office of business of this association for the time being shall be duly kept and preserved—1st, the Cost Book; 2nd, a list of the adventurers and of the shares held by them; 3rd, a correct copy of the Rules and Conditions and Bye-laws; 4th, all books of every kind whatsoever in which any of the accounts, matters, or proceedings of the association are recorded; 5th, all documents, papers, reports, plans, and instruments in writing in any way concerning the association.

Inspection of Books, Accounts, &c.—That the Cost Book and all accounts, balance-sheets, documents, papers, plans, drawings, reports, instruments, and books of every kind whatsoever in which any of the accounts, matters, or proceedings of the association are recorded shall be freely open to the inspection of any auditor or registered adventurer, or of any person authorized in writing by him at all reasonable times, to whom extracts shall on demand be supplied therefrom by the purser on payment of not exceeding 4d. for every 100 words or figures.

BYE-LAWS.

That at any special general meeting of the association to be duly convened for that purpose, the adventurers may from time to time, as they shall think fit, make and institute, and also amend, alter, or rescind any of the existing or future Bye-laws, made or to be made for regulating the carrying on of the general matters and concerns of this association, and the business of the committee of management, and for the government of the officers, servants, or other persons in its employ; provided always that such Bye-laws be not repugnant or contrary to the now stating and resolved or any future rules and conditions of this association, and provided always that such Bye-laws shall be signed by three or more of the committee of management and countersigned by the purser, and be not enforced until they shall have been duly registered in the Cost Book of this association for the term of one calendar month. That all such Bye-laws shall be printed and sold to the adventurers at the sum of 1s. per copy, and a copy be given to every officer of the association.

RULES AND CONDITIONS.

Alteration.—That the adventurers of this association may at any time, and from time to time, by resolution to be passed at a special general meeting to be duly held and convened for that purpose, make and institute new, or amend, alter, vary, and annul either wholly or in part all or any of the Rules and Conditions now or hereafter to be resolved, and of the rights and interests of the adventurers therein, and prescribe and establish any new or other mode of management of the affairs of the association as they shall think proper; provided always that such new or altered Rules and Conditions shall be duly entered in the Cost Book, and so long as they remain in force be as binding upon the adventurers as though all had concurred therein, or the same had been introduced into and formed part of the now stating Rules and Regulations.

Notice.—That a copy of these and all future Rules and Conditions be given to each registered adventurer for the time being.

Printed on back of Certificate.—That a true copy of the foregoing Rule and Condition as to limited liability, No. , and an abstract of all the other Rules and Conditions, be legibly printed at the back of each share certificate.

Dissolution.—That this association may be dissolved at any time by a majority of votes at a special general meeting of the registered adventurers to be duly convened for that purpose, such dissolution to be carried out in such manner as such meeting shall resolve.

SEC. VI.—A CODE OF BYE-LAWS FOR THE DUE REGULATION OF A COST-BOOK ASSOCIATION.

BYE-LAWS.

Resolved and made this day of , 1859, by the adventurers of the Mining Association, under and by virtue of the Rules and Conditions of such association, for the regulating and carrying on the concerns thereof, the business of its committee of management, and the government of its officers, servants, and other persons in its employ.

ADVENTURERS.

Register.—That a register of all present and future adventurers, with their places of residence and additions, together with the number of shares belonging to each and the proper number of each share, distinguishing the numbers of the shares on which all payments have been made from those on which they have not been paid, duly corrected to the Saturday of each week, be made, prepared, and kept by the purser at the principal office of business of the association for the time being.

Inspection.—That such register may be inspected and searched gratis by any registered adventurer at all convenient times, and that extracts shall on demand be supplied to him therefrom by the purser, on payment of a sum not exceeding 4d. for every one hundred words or figures.

AUDITORS.

Salary.—That the salary of the auditors shall be the sum of respectively and no more.

Process of Audit.—That clear days before each ordinary general meeting of the adventurers a true and correct balance-sheet shall be made out, and examined by at least of the committee of management, and certified by them at the foot thereof to be true, which said balance-sheet, together with all necessary accounts and papers of this association having relation thereto, shall be thereupon delivered to the auditors. That within days after the receipt thereof by the auditors they shall duly examine and audit such balance-sheet and accounts, and report specially thereon. That clear days before each ordinary general meeting of this association the purser shall send a printed copy of the balance-sheet and auditor's report to every registered adventurer, according to his registered address in the Cost Book. That at such ordinary general meeting of the adventurers such balance-sheet and all accounts and papers relating thereto shall be produced, and the auditor's report thereon read to the meeting.

COMMITTEE OF MANAGEMENT.

Notices of Meetings.—That all notices for convening meetings of the committee shall be delivered, sent, or posted by the purser five clear days before the day of meeting to the last known place of abode of each committee-man.

Chairman.—That at all meetings of the committee a chairman shall be elected by themselves from among those present; and no business of any kind shall be commenced or discussed until after such election.

Routine of Business.—That the notice convening the meeting be read; that the minutes of the last meeting be adopted and confirmed (if necessary); that the committee's report (if any) be read, and, if approved, adopted; that the auditor's report (if any) be read, and discussed; that the purser's report (if any) be read, and discussed; that the chairman's report (if any) be read, and discussed. That the committee proceed with general business in the order entered in a book of agenda (to be previously prepared by the purser, and laid before the chairman), unless the committee for special reasons to be then stated shall otherwise direct. That notions and other matters may be brought before the committee, provided that written notice shall have been duly given at a previous meeting. That in all debates no committee-man shall be permitted, without consent of the committee, to address the board more than once upon the same question (except to order or explanation, when he shall not be allowed to introduce new matter); but the mover of a resolution may again speak in reply; after which the debate shall be closed, and if required, put to the vote.

Motion.—That every notice of motion shall be in writing, signed by the intended mover, and handed to the chairman; and the substance thereof shall be duly inserted in the notice to be issued and sent by the purser for calling the next meeting.

Vacancy in Committee.—That when ever an occasional vacancy shall occur in the committee of management, notice thereof shall be inserted by the purser in a notice to be issued for calling the next meeting of the committee; and a copy of such notice shall be sent as aforesaid to each committee-man. That no election of a committee-man on an occasional vacancy shall take place, unless, at a meeting of the committee prior to

the proposed election, a notice shall have been given, and signed by the committee-man intending to propose a candidate at a subsequent meeting, of his intention so to do; and such notice shall contain the Christian and surname, the place of residence, and addition of the proposed candidate, the amount of his qualification, and also the name of the committee man whose place it is intended to fill up; and the substance of every such notice shall be inserted in the notice to be issued by the purser for calling the next meeting, and a copy of such notice sent to each committee-man. That the proposer of such candidate shall at the time of giving the last mentioned notice state to the chairman that he believes such candidate is duly qualified, and also that he has assented to take upon himself, if elected, the office and duties of committee man.

Minutes of Meetings.—That a full minute and statement of all meetings of the committee, and a full relation of all business transacted, shall be duly and legibly entered in the cost-book (committee meeting's book) to be kept for that purpose by the purser, which shall be duly laid before the adventurers at their next ordinary general meeting.

OFFICERS.

Duties.—That every officer of this association (unless excused or incapacitated by illness) shall attend every meeting both of the committee and adventurers, and be subject to their commands. That every officer shall examine all bills, accounts, notices, and documents within his department of duty, and certify the same to be correct before they are presented to the committee or adventurers, as the case may be.

Salary, &c.—That no increase of salary to any officer or servant of this association shall be made, nor any contribution, gratuity, or reward given or voted by the committee of management for any cause whatever, unless a notice of motion for that purpose shall have been given at a preceding ordinary meeting of such committee, and the substance of such notice inserted in the notice of the next subsequent meeting and sent to each committee man.

PURSER.

Qualification.—That the purser shall give his own personal security by warrant-of-attorney and judgment to the association, or their nominee or agent in the sum of £ ; and also obtain some responsible person to be so bound for him in a like sum for the due performance of his duties.

Salary.—That the salary of the purser shall be the sum of £ per annum, and no more.

Duties.—That in addition to the duties prescribed by the Rules and Conditions and Bye-laws of this association, he shall prepare and cause to be duly sent to each of the committee and adventurers all notices for the due convening of meetings: he shall keep books of agenda of all business to be transacted at all meetings both of the committee and adventurers, and cause the same to be laid before the chairman thereof, before or at the commencement of business: he shall collect and receive all monies, securities, and property of the association, whether arising from calls on shares, sales of ores or materials, or on any other account, and shall forthwith either pay the same into the bank of the association to its account, or duly pay and apply the same as he shall be directed by the committee of management: he shall duly account to the association for all fees paid to him for certificates of transfer and extracts of accounts, &c.: he shall duly enter into a book or books to be kept by him for that purpose all monies on whatever account, either received by him or paid either to or by him for or on account of the association; and in such entries he shall specify plainly and distinctly the day of the month and year on which he so received or paid the same, from whom, to whom, and on what account; and he shall produce such book or books at all meetings, whether of committee-men or of adventurers, in order that the same may be inspected, examined, checked, or audited by them: he shall duly keep all other accounts of this association within the sphere of his duty, and duly and lucidly enter them in a book or books to be kept for that purpose, with the date when each account was delivered to him, together with all necessary information relative to the same; and shall also, upon the order either of the committee or adventurers, demand payment and fulfilment of all monies, contracts, and matters due to the association, and enter in a book or books the date of such demand; and he shall duly keep, make out, and prepare in a lucid and mercantile manner all accounts, returns, registrations, statements, and other documents which the Rules and Conditions and Bye-laws for the time being of this association require him or the committee of management to make out; and also give and present them for the consideration and approval of the committee; and shall also duly prepare and make out all special and extraordinary accounts, notices, statements, and other documents ordered by the committee, or resolved by the adventurers; and also shall do and see that all matters within the sphere of his duty are properly carried out and perfected according to the Rules and Conditions and Bye-laws for the time being, and the directions and orders of the committee.

MINE CAPTAIN.

Office.—That the mine captain as to the duties of his office shall be under the immediate control of the committee of management, subject to the general control and direction of the adventurers.

Qualification.—That no person shall be appointed mine captain who is or shall have been a committee-man, purser, or other officer of this association, or shall be a party to or be interested in any contract with the association, or shall have the control, management, or superintendence of any other mine within a radius of three direct miles from the principal mine shaft of this association as the centre; or shall follow, carry on, or be in any way concerned in the business of an engineer, assayer, smelter, sharebroker, or dealer in metals or mine produce; or shall have any interest in any contract in or relating to any of such professions, businesses, or callings without the sanction in writing of the adventurers first obtained. That he shall be well acquainted with the various branches of his duties as mine captain, and the proper and usual methods of mining, dialling, pumping, and mine surveying and viewing; and shall be competent to measure and value all works, mine produce, materials, and other matters within the limits of his duties; and also to draw up reports and simple outline plans and sections of all workings, levels, drifts, and other mine operations. That he shall give security for the due performance of his various duties in not less than £ .

Duties.—That he shall make correct estimates of all work to be done within the sphere of his duties, and report thereon when required. That he shall superintend and direct all the mining works and operations, both above and below ground, within the sphere of his duties, and measure and value the same when necessary, and report thereon. That he shall see that the whole of such mining works and operations are done in a good, miner-like, substantial, and workman-like manner; that all materials and other matters are supplied according to contract. That he shall keep distinct and clear accounts of all levels, drifts, tribute, and other mine work of what kind soever, and produce the same when required. That he shall superintend and pay the wages of all miners and others employed on any work or operation within the sphere of his duties. That he shall from time to time duly examine and check all accounts for repairs, machinery, or other work done within the sphere of his duties, and prepare and send the same to the purser, with all necessary accounts relating thereto, together with his report thereon, within one week after the work is completed; and duly enter all such accounts separately and distinctly in a book to be kept by him for such purpose, and without delay produce such book whenever required either to the committee or any registered adventurer. That once, at least, in every week, or more frequently on request of the committee, he shall thoroughly examine and dial (if necessary) the whole of the mine works and operations both above and below ground, and ascertain their exact condition and appearance, and shall thereupon duly and faithfully report all such matters to the committee; such report to be open at all times to the inspection of such committee and the adventurers, on application made to him by them for that purpose. That he shall keep a stock account, showing how all materials, &c., charged to the association have been disposed of, and what may be remaining on hand; and also take stock from time to time of all ores and materials, for the purpose of ascertaining that the quantity on hand corresponds with the balance shown in the stock-book, such book to be made up in a perfect state, and, together with a report thereon, produced at all meetings of the committee or adventurers. That he shall weekly perambulate the boundaries of the sett, and if necessary fix up from time to time boundary marks where such are required; and that he shall be in attendance at

all meetings of the committee when required, and at all meetings of the adventurers, whether ordinary or special.

MINERALS, MINE PRODUCE, MACHINERY, &c.

Contracts for.—That all applications or proposed contracts in respect of any minerals, mine produce, machinery, works, or matters in relation thereto, shall be plainly stated in writing to the purser, and be signed by the applicants, stating their places of residence.

Removal, &c.—That no minerals, mine produce, machinery, or other property of this association, of what kind soever, shall be removed beyond the immediate custody and control of the committee and adventurers, without the permission in writing of three of the committee first obtained for such purpose.

CONTRACTS.

That all contracts of what kind soever, and so far as is particular, shall be made in writing; and after they shall have been reported on, shall be duly entered in the Cost Book (Contract Book), which book shall be at all reasonable times open to the examination of any registered adventurers.

Payment of monies, &c.—That all payments above the sum of £10 shall be made by check drawn on the bankers of this association, which check shall be signed by three of the committee for the time being.

Accounts.—That a balance-sheet showing the total amount of monies received by or on account of the committee, or due to them on any account whatsoever, also of all payments made by them for any and what purpose, and of all sums of money and for what purposes owing by the association, shall be made up by the purser to the Saturday inclusive of every fortnight, and laid before the committee for its information. The first account to be made up to the Saturday before the first general meeting of the committee, to be held for the purposes of this association, which balance-sheet shall also be open to the free inspection of every registered adventurer.

Reports.—That for the easy and more convenient reference to the several reports to be made by the officers of this association, they shall be numbered numerically, and entered in the Cost Book (Report Book), which shall be open at all reasonable times to the inspection of every registered adventurer.

SEC. VII.—THE PROSPECTUS, AND SUGGESTIONS FOR ITS IMPROVEMENT.

Having considered the rules and conditions of a Cost Book Association, it may be convenient to offer a few observations upon the nature and contents of a Cost Book Prospectus.

If, for the purpose of raising capital, &c., it be necessary to make public a Cost Book Mining Association, this is generally done in the usual way, namely, by advertisement in newspapers and by the issue of a prospectus.

The prospectus of such an association, after declaring the name of the association, should state the amount of capital and the number of parts or shares into which it is divisible.

It may here be remarked that originally it was the usage with adventurers on the cost-book principle to divide the adventure into sixty-four parts or shares, without reference to value, in the same manner as shipowners of the present day divide the interest on their ships in sixty-fourth parts or shares. In late years, however, mine adventurers usually divide their undertaking into more numerous divisions, giving to each part or share a specific value, as 1,000 parts of £1 each, instead of into 1,000 parts without reference to any sum per part.

From the above apparently slight difference arises the following great practical distinction:—Thus, if a part have a fixed pecuniary limit, upon its payment the part so far as that condition is concerned is satisfied, and can never become forfeited; whereas if the undertaking be divided in parts without any fixed pecuniary limit, such parts, although any amount may have been paid, are by the cost-book principle forfeited if the last call be not paid. This hardship—for it is nothing less—has induced the writer, whilst treating upon capital in a previous part of this paper, to regard the parts as having a determinate pecuniary value, which seems the fairest method of dealing, and more suitable to extensive operations. Provision may be made for a further issue of shares if necessary. (See rule, *Capital*.) To proceed:

The prospectus should always express that the association will be "conducted on the cost-book principle."

The practice is various as to publishing the names of the committee of management—some associations do, others do not. As, however, the spirit of the cost-book principle is, as has been shown, that the whole body of adventurers may vote in the appointment of their committee, it is difficult to see how their names can appear in a prospectus which is anterior in point of time to the first meeting of adventurers. No doubt in some instances the promoters of the mine, at a preliminary meeting, appoint such committees, which, if composed of men of honour and business habits, is an advantage to the adventurers.

The names of the bankers, standing counsel, solicitors, auditors, brokers, engineers, resident agent, purser or secretary, captain, and all other servants of the association, should be published in the prospectus, together with the *locale* of the offices.

The prospectus should shortly but accurately describe the situs of the sett or mine, and fairly and honestly state its claims to public encouragement.

The remainder of the prospectus may be appropriately occupied with a true abstract or copy of the engineer's or captain's reports, if any have been made.

Above is a short descriptive outline of the prospectus of a mining association, founded upon the cost-book principle. It is, however, to be regretted that the greater number of mine prospectuses thrust upon public attention do not confine themselves to a mere honest and true statement, but indulge in a florid and seductive and sometimes false colouring of the advantages of their mines—mostly, however, in such terms as clearly show both an ignorance of law and a disregard of truth.

But, to particularize. Many prospectuses contain a statement that "no deed need be signed," a statement evidently made for the dishonest purpose of cajoling timid capitalists into the erroneous notion that by not signing a deed they run no risk of liability for the debts of the association. Now, one of the essentials of the cost-book principle is, that the association shall be governed by a code of rules and conditions entered in the cost book, and which it is necessary that every person desirous of entering the association shall subscribe, and so become legally bound to observe them. It is however true, that as a subscriber of such rules and conditions does not seal as well as sign them, so he does not in law make a deed—a mere technical difference. But he does this: he renders himself as perfectly liable by his mere signature as if he had at the same time set his seal to them. Again: it may, however, be said that the phrase "no deed need be signed," so delusively paraded, is both in fact and in spirit true, and that neither deed nor rules and conditions need or are required to be signed. What, in such a case, is the position of the adventurer? Simply this: that he has joined an association which lacks an essential of the cost-book principle, namely rules and conditions; an association, the legal quality of which not being ascertained, cannot be shown to be founded on the cost-book principle, and is therefore in law nought but a mere common law mining partnership, in which every partner is not only undeniably liable for the whole debts of the concern, but in which each partner can, to a ruinous and unlimited extent, render the others liable. In other words, the deluded adventurer, whilst grasping at a supposed non-liability, has had filched from him the reasonable protection and limited liability which the cost-book principle would have thrown around him; a door is opened for the commission of the most flagrant frauds without hope of discovery, and he is left to enter into unseemly contest with persons to whom he is probably an entire stranger, but with whom the law declares him to be in partnership, and for whose acts he is liable.

The above remarks have chiefly reference to an adventure which turns out to be a losing speculation. If, however, the adventure be prosperous, the absence of a deed or rules and conditions in most cases inflicts upon the adventurer a more serious though less painful loss. Thus, in the former case he indeed has to satisfy the creditors by positive payment, but only of such a sum of money as they can duly prove to be due to them. In the latter case, however, an unascertainable portion of dividends may be continuously withheld from him, and thus he negatively pays by not receiving the whole of his dividends; until, overcome with disgust, he is at length induced to part with his shares to those who have become capitalists by transacting the fraud.

Capitalists should, therefore, eschew all associations that have "no deed," and should make themselves thoroughly acquainted with the rules and conditions of an association ere they embark their capital in it. Again, other prospectuses dishonestly and untruly assert that "no adventurer shall be subject or liable beyond the amount of his shares," an assertion which, as we have shown, is totally unsupported by law, and has been epitomized by the Court of Chancery as a fraud against the world, and therefore void, unless the privilege be granted by Parliament. Such a clause must not find place in any prospectus of an adventure founded on the cost-book principle.

Again, other associations professing to be constituted on the cost-book principle state in their prospectuses that the certificates for the parts or shares are issued to "bearer"—certificates in which form are generally supposed to confer upon their holder a discretionary power as to whether he will register or not; so that he, by keeping his co-adventurers in ignorance that he is an adventurer, may contrive to shirk (for it deserves no better epithet) his share of the mine expenses. Now, the omission to register, besides being, as we have seen, directly and materially contrary to the cost-book principle, does not, as has been shown, prevent the liability of the holder, unless he altogether withdraw from all personal interference with the affairs of the association. Beside, non-registration is practically so inconvenient that registration is, in fact, not only necessary but compulsory. Thus as to liability, notwithstanding the certificates be to "bearer," registration is found to be in practice absolutely necessary in order to control the affairs and concerns of the association by attending meetings, voting, &c.; which acts, being *prima facie* proof of ownership of shares, have been judicially held to be abundantly sufficient, as has been shown, to render an unregistered adventurer liable to the debts of the association. Also as to participating in the profits, dividends, avoiding forfeiture of shares, it is absolutely necessary to register, otherwise such an adventurer will be ignored by his co-adventurers. Upon the whole, it may safely be affirmed that the issue of certificates to bearer, as well in relation to its non-freedom from liability, its antagonism to the cost-book principle, and of fair and honest enterprise, as of its general practical inconvenience, should not be resorted to by any association wishing to obtain the confidence of capitalists.—See ante, *Shares* (Registration of).

Having stated what a cost-book prospectus should and should not state, the author has to beg attention to the following suggestions of his own, the adoption of which he recommends to the consideration of cost-book mining associations now in the course of formation.

One of the main causes of the fearful apprehension with which mining speculations are entertained by many, arises not so much from the uncertainty of mine adventure, but from the injudicious withholding from the free inspection of the public, previously to the purchase of shares, all knowledge of the rules and conditions upon which the association is based. Now, on the sale of real estate by auction, the public expect to be correctly informed, by the particulars of sale, of the exact condition of their intended purchase; and it may be safely assumed that if such an estate were submitted to auction, in the absence of particulars of sale, that no capitalist could be found so facile as to make a bidding. Now, although so manifest in the case of a sale of real estate, yet it is the constant and daily practice for mining associations, by their prospectuses, to invite capitalists to support their undertakings, and yet strictly withhold from them all knowledge of the rules and conditions upon which the associations are founded. It may be said that the rules may be inspected at the purser's office; but why should not such trouble be saved? Besides, a cautious capitalist should require not only inspection, but a copy of them to study and consider; for the character of an association may be judged of by its conditions—at least its constitution can be ascertained from that source alone.

Again, why should a mining association, based on the cost-book principle, be the only mining association in which such information is so improperly withheld? Clearly no sound reason can be given for the anomaly. If a company be established by Act of Parliament, a copy of the act is at all times procurable at a cheap rate from the Queen's printer; if by Letters patent under 1 Vict., c. 73, by search in the Chancery Inrolment office for England, on payment of 1s.; and if under the Joint Stock Acts, by search at the office of the Registrar-general of Joint Stock Companies. The only other mining association known to the law (beside the cost-book principle) is the ordinary common-law partnership; which, being founded on consent, pre-supposes a perfect knowledge both of all the terms of its constitution and of all the partners.

In a word, therefore, the author of the above observations strenuously urges the promoters of future associations on the cost-book principle to secure public patronage and confidence to their undertakings, by unservingly affording to capitalists a true knowledge of the rules and conditions upon which their associations are based; which object the author suggests cannot be more economically and perfectly accomplished than by publishing as a part of the prospectus at least a full abstract, if not of all, yet of the principal rules and conditions of the association, especially those relative to the appointment of officers, contracts, audit, and meetings.

In concluding this portion of our subject, it cannot be too much impressed upon legal agents engaged in the formation of mining associations, particularly those founded on the cost-book principle, that the prospectus should be prepared and settled by a person possessing competent legal knowledge; and that it is essential the prospectus should not in statement be repugnant to the rules and conditions of the association; otherwise an allottee may either recover back the sums he has paid for his scrip or shares from the individuals with whom he has dealt (*Stewart v. Anglo-Californian Gold Mining Comp.*, 21 L. J. n. s., Q. B., p. 377; *S. C.*, 17 Jur., 257), or may maintain an action against the committee of management for the false and fraudulent representations contained in the prospectus issued by them, or in an extreme case obtain a dissolution and account. In the latter case, however, it must be distinctly proved that the injured adventurer became the purchaser of the shares upon the faith of such false representations—that they were made by the defendants (committee), and that they knew them to be false (*Shrewsbury v. Blount*; 2 Scott, n. r., 588; *S. C.*, 2 M. & G., 475; *Steigensberger v. Kerr*, 3 Scott, n. r., 466; *S. C.*, 3 M. & G., 191; *Pitchford v. Davis*, 5 M. & W., 2; *Arundell v. Atwell*, cor. Wood, V.-C., E. T., 1853).

SEC. VIII.—THE SINGULAR APPROPRIATENESS OF THE COST-BOOK PRINCIPLE FOR THE CONDUCT OF MINING ADVENTURE.

That the cost-book principle is singularly appropriate for the conduct of mining adventure is, it is presumed, scarcely denied. Besides, as it is, as defined, a voluntary usage, it would not be adopted if inconvenient. Also, being a mere usage, it has from time to time readily adapted itself to all the wants of such associations. Also, as the principle is, as admitted, the practical application of natural equity to mining association, it is reasonable that it should be found to answer well, and be convenient for the purposes for which it was intended. Finally, it may be asked, upon what but its merits can it have prolonged to this day an existence of nearly three centuries' duration? With a popularity daily increasing, not only in England, but abroad, it having become usual to work mines in Wales, Ireland, Scotland, the Canadas, the United States of America, and even in the Brazils, on the cost-book principle: there are also several writers who affirm that in France, Belgium, Prussia, Saxony, and Russia, mining association is conducted on the same constitution.

But passing by general remarks, the cost-book principle, so far as regards its applicability to the purposes of a mining association, will on examination be found not to suffer by contrast with those four other methods for forming mining partnerships which the English law embraces within its system, namely—1st, Act of Parliament; 2nd, Letters patent, in the nature of a royal charter, under stat. 1 Vict., cap. 73; 3rd, The joint-stock system; and 4th, The ordinary or common-law partnership. Of each in its order, first premising that mining associations are governed by the general principles of law applicable to all partnerships, except where such principles are suspended by the privileges of an Act of Parliament, charter letters patent, joint-stock companies' acts, &c. (*Carter v. Whalley*, 1 B. & Ad. 11.)

1. Undoubtedly an association established by Act of Parliament enjoys several privileges in which it is legally impossible an association founded on the cost-book principle can participate: such privileges are, however, practically less valuable than they are generally supposed to be, especially to a mining association: beside this, that the expense of obtaining the act, together with its usually cumbrous machinery, render it altogether inapplicable to the majority of such associations, at least

whilst in their infancy. If, however, a mining association founded on the cost-book principle should, after it has become flourishing and well established, desire to be incorporated by Act of Parliament, it is perfectly competent for it so to do. The author's opinion is, that ordinarily the expense of an Act of Parliament should never be incurred, unless its powers are for some extraordinary purposes absolutely required; because the constitution by letters patent, mentioned in the next paragraph, provides a less expensive and sufficient incorporation for all the usual requirements of a mining association.

2. It must be admitted that an association established by letters patent, under 1 Vict., c. 73, enjoys privileges, so far as the wants of an ordinary mining association require, equal with those conferred by Act of Parliament; in which privileges it is likewise impossible that an association founded on the cost-book principle can participate. Among these privileges which are best adapted to mining associations are the following:—1. It may exercise the privileges of a corporation. 2. It may sue and be sued in the name of one of the officers of the association. 3. It may restrict liability of members to such extent per share as shall be declared and limited in and by such letters patent. 4. It may provide for the ceasing of liability of adventurers on registration of transfer of shares. 5. Under letters patent the adventurers also enjoy the protection which an enrolled deed of partnership and a strict registry of shares so perfectly provide. Before relinquishing this division of our subject, it may be convenient that the opinion of the author, founded on experience, be now expressed—that the best constitution for an ordinary mining association is, that it should be formed and nurtured on the cost-book principle, and, if successful, and the importance of its concerns should require corporate powers, that it should be incorporated by letters patent under stat. 1 Vict., c. 73. The English law affords no better, more satisfactory, or practically efficient constitution, either for economy, simplicity, or despatch, than the combination of the cost-book principle and that by letters patent under the above-mentioned statute.

3. The cost-book principle bears a favourable contrast with the joint-stock system. Thus, whilst the former, as has just been stated, is acknowledged to be the commercial embodiment of economy, simplicity, and despatch, the latter is, through the innumerable, yet ineffectual statutory precautions to prevent fraud, admitted to be the most monstrous and costly constitution by which partnerships can be constituted and governed. It would far exceed the reasonable limits allowed to this paper to specifically describe all the inconveniences of the joint-stock system; suffice it, therefore, to state the following salient points:—1. The cost-book principle enjoys a statutory exemption from registration and the complicated machinery of the Joint-Stock Act 7 & 8 Vict., c. 110, the 63rd section of which enacts that nothing in that Act contained shall extend or be construed to extend to any partnership formed for the working of mines, minerals, and quarries, of what nature soever, on the cost-book principle. 2. Under the cost-book principle the whole of the adventurers—unless they voluntarily choose to delegate their authority by appointing a committee of management, &c.—exercise the sole power, direction, and control in the management of their association: whereas, under the joint-stock system, it is essential that the direction be vested in directors appointed by the adventurers. 3. Under the cost-book principle general meetings of the adventurers are held more frequently than under the joint-stock system, and the transfer of shares and conditions of liability are somewhat different. The joint-stock system has, however, this advantage over the cost-book principle, namely, that by stat. 7 and 8 Vict., c. 110, sec. 63, no execution may issue against a shareholder on account of the company after he shall have ceased to have been a shareholder for the term of three years; whereas, under the cost-book principle, an adventurer is liable to be sued for the space of six years. This liability to be sued should be limited in both cases to the period of six months. But more upon this point hereafter.

4. and lastly. The fact that mining associations are for the most part based on the cost-book principle in preference to being established as ordinary common-law partnerships affords undoubted proof that the former is practically a much more convenient institution than the latter. That this preference is not the result of mere whim or caprice is clear from the fact that the cost-book principle has nearly, if not quite, completed the third century of its existence; a fact which amply proves that it owes its esteemed position in the opinion of mining capitalists entirely to its merits. It is proposed now to shortly mention a few only of the chief advantages which the cost-book principle possesses over the ordinary common-law partnership. 1. That under the cost-book principle the powers of the officers of the mine or the adventurers to pledge the credit of the association are so limited that, practically, it may be said they have no further powers in this respect than those expressly delegated to them by the Rules and Conditions and By-laws of their association (*Ricketts v. Bennett*); whereas, under the ordinary common-law partnership the partners' powers in this respect are much more unlimited. 2. which is connected with the preceding, has relation to the very limited extent to which careful adventurers under the cost-book principle can be made liable for the debts of the mine (*Ricketts v. Bennett*); whereas, in an ordinary common-law partnership, each partner is liable for the whole amount of the debts of the concern. 3. That under the cost-book principle the direct management of each adventurer is exactly equivalent with the quantum of his interest, unless otherwise expressed by the Rules and Conditions of the association; whilst, under an ordinary common-law partnership, each partner must in general not only consent to every partnership act, but his voice and not his interest in the firm is the measure of his influence, unless the deed of partnership expresses otherwise, the law assuming that the interest of all the partners is equal. 4. That the purser may sue any adventurer for his proportion of the mine-cost, when audited and signed by the adventurers at their meetings; whereas an ordinary common-law partner is denied that privilege (unless an account has been stated), but must institute a Chancery suit for redress. 5. The ease with which, under the cost-book principle an adventurer may of his own free will transfer his interest to a stranger, the co-adventurers having no right of *detectus persone*; whereas, under an ordinary common-law partnership, the approval of an associate practically though not legally, rests with the partners. 6. The power under the cost-book principle by which an adventurer may freely relinquish his interest to the association, and thus relieve himself from future liability. It need scarcely be said that such a privilege is not known to the ordinary common-law partnership. 7. and lastly. The ease with which a Cost-Book Association may, in case of insolvency or voluntary dissolution, be quickly and inexpensively wound up under the before-mentioned Winding-up Acts—a privilege denied by the law to an ordinary common-law partnership, if the number of partners be less than seven. For the above reasons it is confidently assumed that the singular appropriateness of the cost-book principle in the conduct of mining association has been abundantly proved.

SEC. IX.—ON THE INEXPEDIENCY OF INTERFERING WITH THE COST-BOOK PRINCIPLE BY STATUTORY ENACTMENT.

After the many just encomia on the cost-book principle, contained in the foregoing pages, it can scarcely be expected that the principle has any very serious defects. Indeed, the nature of its constitution, the careful manner in which for many generations it has been nurtured and improved by mining capitalists, and the ease with which the principle has been constantly adapted to the ever-increasing wants of mining association, have all greatly contributed to leave nothing desirable in the way of its improvement but the remedy of some few slight defects in management, audit, &c., which may be readily cured or obviated by a skillfully drawn code of rules and conditions.

There are, however, as we have seen, evils connected with the modern machinery of the cost-book principle which call loudly for repression: they are, the unconscionable issue of certificates of shares to "bearer," and the consequent non-registration of adventurers in the cost book; both which acts are, as we have seen, in direct violation of the fundamental laws of the cost-book principle. In a word, such statements, so far as they afford any real protection, are altogether hollow and untrue, though probably, in some cases, made by persons ignorant of their unsoundness and falsehood.

Notwithstanding a rectification of the above abuses would be highly beneficial to the public, yet it is better that they be left to be cured by

* This is in accordance with the Stannary laws.

the general laws of the land as they now stand, assisted by the good sense of the public, than prevented by special Act of Parliament; for the Legislature, if induced to interfere, would legislate as well for honest as dishonest associations, and so encumber all with a preventive machinery, perhaps little less cumbrous and expensive than that which now fetters joint-stock companies. Beside, as the cost-book principle has at present the all-important advantage of being entirely, except as to winding up, a creature of the common law alone, it would be unwise, apart from the difficulty of so doing, consistently with its preservation, to limit it within the four corners of a statute, as its statutory bonds would thenceforth prevent the "principle" amplifying and adapting itself to the wants of succeeding generations, or accommodating itself to the new and special conditions which the increasing requirements of the mining operations of this great country so constantly render necessary.

The author is aware that Mr. Collier, whose valuable little treatise "On the Law relating to Mines" is now before him, has at p. 1 (appendix) of that work given the skeleton of an Act of Parliament for the regulation of cost-book associations; yet, surely, Mr. Collier at this day, with the expense and intricacy of the Joint-stock Companies' Acts fresh in his remembrance, will not now advise a resort to legislative interference, and in such a form. Further, the cost-book principle is now better known and understood than when that gentleman wrote; and, so far as his suggestions go, the author can anticipate nothing of a permanently satisfactory nature from an Act of Parliament. Also, as "one Act of Parliament," it is said, "begets another," so the author fears the mining public would in a few years find the cost-book principle under its statutory dynasty as costly, as intricate, and inconvenient as it is now inexpensive and simple and convenient.

Again: although Mr. Collier's proposed Act for the regulation of cost-book associations is strictly upon the model of the Joint-stock Companies' Acts, yet all the provisions that gentleman suggests may, if desired, be voluntarily adopted by existing or future cost-book associations; except, of course, the compulsory public registration, which the "principle" is certainly, in the author's opinion, much better without. The author may be unfortunate in the view he has taken of Mr. Collier's proposed alterations; but this view the former has, upon great consideration, been constrained to adopt.

The only truly formidable objection to the cost-book principle not within the immediate control of the adventurers, is that before discussed, of "unlimited liability." But even this can be avoided by a strict system of bi-monthly accounts, a rigorous audit, and the appointment, as officers of the mine and members of the committee, of such persons only as are honourable men of business. The envied mercantile position of Englishmen, and their high social and commercial status, are alike due to the large element of honour which governs their conduct. It is that element, therefore, and that alone, together with an aptitude for business, which adventurers should chiefly require as the necessary qualifications of all their officers and servants. Lastly: if there should be the slightest doubt as to the strict honour and business habits of the management of any given association, liability can only be effectually avoided by simply declining any connection with it.

An attention to the Rules and Conditions above given will sufficiently point out the true spirit of the cost-book principle; and a rigid adherence to them will ensure to the adventurers all that good result which is possible to be conferred by a voluntary commercial usage which can claim a purely common-law existence for above three centuries.

CHAP. II.—SUGGESTIONS FOR THE IMPROVEMENT OF THE PRESENT ANOMALOUS STATE OF THE LAW WITH REFERENCE TO MINING.

The great defect of the mining law of England is, that no one but a lawyer knows how to find it or where to look for it. It is true that many valuable treatises exist in which the law is condensed; but, notwithstanding, it cannot be denied that text-books are sometimes wrong, and rarely admitted to be right by him whose view of the law they do not support; so that, in case of dispute or legal proceedings, the fountain-heads of the law must be consulted—a feat, if not beyond the mental powers of, certainly too costly by the consumption of valuable time to be indulged in by, those engaged in mining pursuits, or indeed by any but a professed lawyer.

The only way in which this defect may be to some extent remedied, is by requiring from the Legislature a "Code of Mining Laws," both accurately consolidated and well and simply compiled—a task, by-the-by, which it would be most difficult to accomplish satisfactorily, and one which should not be attempted except by a mixed commission of lawyers and scientific miners, both well acquainted with the subject.

Before, however, the work of consolidating and compiling a mining code be proceeded with, it will be necessary that the Legislature amend the general law of mines, that is, so to recast and alter it, that the code when made shall be acceptable to the public.

The anomalies and defects which our mining-laws now present are so many and monstrous, that it is a subject of much wonder how they should have existed for so long a time, except that it may be because the specific defects and anomalies have not been brought prominently and specifically before the Legislature.

It is proposed, therefore, now to detail as shortly as may be, and without comment, some few of the most prominent and oppressive of such defects, and which it is suggested should forthwith be remedied by the Legislature.

1. That the Crown relinquish and abolish its prerogative and statutory right to mines royal.
2. That the Crown relinquish and abolish its prerogative right to minerals found on the sea-shore at certain states of the tide.
3. That the Crown relinquish and abolish its prerogative and statutory right to the pre-emption of metallic ores; a right useless to the crown unless enforced, and which it might now legally exercise, with the present price of ores, with great pecuniary advantage to itself and damage to its subjects.

The Crown pre-emption price of the metallic ores are as follows (which the reader is requested to contrast with the now market prices):—

Copper ore.....	£16 per ton
Tin ore	2 "
Iron ore	2 "
Lead ore	25 "

4. That the owner of land, notwithstanding a grant or lease of the surface, shall have an implied power to enter and work minerals on payment of surface compensation to his tenant; unless such implied power be expressly taken away by agreement.
5. That a tenant shall not work an open mine unless it be specially demised.

6. That the Copyhold, Commutation, and Enfranchisement Acts be amended, and extended to embrace a compulsory commutation and enfranchisement of minerals—a provision which would be highly beneficial as well to lord and tenant as to the public.
7. That provision be made for the due and proper working of mines under church, charity, and college lands.
8. That the Common-Law Judges at Chambers, and the Judges of County Courts, have concurrent power with the Court of Chancery to suspend the working of mines, on a proper case made.
9. That quarries shall not be rateable to the poor.
10. That the heir-at-law or tenant in fee or in tail may work or lease unopened mines, under the estate of a tenant in dower during her life, subject to compensation for surface damage.
11. That the heir-at-law or tenant in fee or in tail may work or lease mines under the estate of a tenant by the courtesy during his life, subject to compensation for surface damage.
12. That the powers of tenants for life to lease opened mines shall be amended to the extension of the estate of the lessee.
13. That tenants for life shall have power to work or lease unopened mines under ascertained restrictions.
14. That the powers of mine inspectors be enlarged, with a view to the more effectual prevention of accidents in mines.
15. That the right of a creditor to sue a cost-book adventurer who has parted with his shares, be limited to six months after such event.
16. That a Mining Clauses' Consolidation Act be passed, embracing

liberal provisions common to all mining partnerships having a capital divisible into parts or shares, and transferable at pleasure.

17.—That the fee to be payable to the state for liberty to adopt such consolidated provisions shall be the sum of £25, and no more.

Beside the above defects and anomalies, there are many others of less importance. The principal grievance however is, that in consequence of family settlements, and the carving out of estates for life, &c., the working of the vast mineral riches under settled estates is either forbidden or subjected to the most impolitic and absurd restrictions.

CHAP. III.—A CONSIDERATION OF THE ALTERATIONS NECESSARY IN THE LAW FOR THE LIMITATION OF LIABILITIES IN MINING PARTNERSHIPS.

The statement of the above point for consideration would seem to imply that the necessities of mining capitalists require that there should be a limitation of liability. The author is, however, of opinion that the law of mining partnership, as it at present stands, is sufficiently protective of the capitalists, and, moreover, that the legislature would not concede any remission of liability without, as in the case of joint-stock companies, encumbering, if not overwhelming such protected associations with a machinery unnecessary for honest men, and fatal to the active operations of the majority of mining associations.

Before considering the English law, it may be expected that some notice be taken of the French law of partnership, of which the mining public has heard so much. The principal commercial partnerships known to the French law are three, namely: 1st, Société en commandite; 2nd, Société anonyme; and 3rd, Société en nom collectif; no one of which is so adapted to the true spirit of mining enterprise as the cost-book principle, or letters patent under 1 Vict. c. 73. In fact, they all three require the clog either of registration, or a constitution by a public deed similar to the English charter; beside which, in the case of commandite, those persons who, in the English system, would be called shareholders or adventurers, and have a mediate or immediate voice in the management, are by the French code styled, "*associés simples bailleurs de fonds*," and are, as their name implies, strictly prevented from controlling the management without becoming liable to the whole debts of the concern; thus putting them in the un-English position of seeing their money spent without being able to control the expenditure—a position which no English capitalist would for a moment endure. It is true that the *associés simples* are respectively relieved from loss beyond the amount of their shares; but the same boon is enjoyed in England by Act of Parliament, letters patent under 1 Vict. c. 73, and by the cost-book principle under skillfully drawn rules and conditions, with the great and supplementary privilege of power to interfere in the management. In a word, the English system of laws is, so far as it relates to mercantile matters, incomparably superior to the French code; and although it may be possible to point out a few minor portions of the French code, which might be introduced into the English system with advantage, yet the advantage to be derived from changes so insignificant would not be in any degree commensurate with the difficulties and uncertainties, litigation and expense, to which such introduction would subject English capitalists.

To revert to the English system. That the English system of partnership should be amended by a limitation of liability of the adventurers, is a notion which, though general, is, in the opinion of the author, most erroneous. Surely capitalists do not wish for power to contract debts without the corresponding obligation to discharge them. What do they want? Not a limited liability; for that they have if they choose to acquire it. Aye, and they can have such limitation under several forms. Thus: 1st. By private Act of Parliament, which not only incorporates and confers privileges to an extent invasive of common-law rights, but limits beyond the hope of dispute the liability of the persons so fortunate as to obtain such a constitution. Also, such an act may, if required by the importance of the association, embrace all the coveted points of the French Société en Commandite, &c., as it is within the supreme power of the British Legislature to confer them upon its subjects. 2nd. By letters patent under 1 Vict. c. 73, which we have seen not only incorporates, but restricts liability, and is, as has been said, the best constitution that a mining association can have, and incomparably superior to any thing in the French code. 3rd. Under the Joint-Stock Companies' Act; a 6th of which limits the liability to three years next after the person sought to be charged shall have ceased to be a shareholder of such company. This boon might be well extended by reducing the above-mentioned three years to six months. 4th. Under the cost-book principle. An adventurer should know either personally or by reputation those with whom he connects himself, and the exact terms upon which he does it. Also, as the adventurers manage, they should therefore pay the debts incurred by themselves. An adventurer may also limit his future liability by the free disposal of his shares. His position might, however, be improved by a rule that no adventurer shall be sued for the debts of the association after he shall have left the association for six calendar months. 5th, and lastly, the ordinary common-law partnership is so purely voluntary and conventional, the partners are in general so few, so well known to each other, and have so personal a share in the management, that to limit their liability would destroy the whole present system of credit; beside, they can always incorporate themselves by Act of Parliament, letters patent, or adopt the cost-book principle.

The real want of mining capitalists is (so far as regards the present portion of this paper) that they should be able to obtain incorporation by Act of Parliament, letters patent, charter, &c., at a small outlay of money. It is the expense, and that alone, which is the clog from whence has arisen the illogical reasoning that, because a limited liability is a privilege too expensive to be commonly purchased, therefore it does not in fact exist. No doubt the excessive cost has the practical effect of preventing the privilege of a limited liability being generally obtained; but yet the law affords it to those who can pay for it. The remedy, therefore, is clear and obvious, namely, by passing a Mining Companies' Clauses Consolidation Act, restricting liability, embracing all mining associations may adopt its provisions by payment of the sum of £25. Or the same end might be obtained by limiting the cost of a personal Act of Parliament or letters patent under 1 Vict. 73, or charter, to some small sum of money—say £25.

To conclude. The result of the best consideration that the author of this paper has been able to give this portion of our subject is that, as a limited liability can be obtained if its price can be paid, so it is the duty of our Legislature to make that price a reasonable one, and within the easy reach of ordinary mining associations, and that a stamp duty of £25 on the deed of incorporation should be all that should be necessary to confer that privilege.

9, Inner Temple-lane, 14th Dec., 1853.

NEW ILLUMINATING POWER.—Mr. Oliver P. Drake, of Massachusetts, (U.S.), has patented a new improved apparatus for vapourising benzole, or other suitable volatile hydro-carbon, and mixing it with atmospheric air, so that the mixture may be burnt for the purposes of illumination or otherwise. This invention consists in:—1. The combination of a heater and gas-burner with a water-vessel and vapourising chamber, so that by means of the heater and gas-burner, and pipes connecting them with the water-vessel and the vapourising chamber; the whole or part of the mixture of air and benzole, or hydro-carbon vapour, produced by the apparatus may not only be used in any convenient place for the purpose of illumination, but also for heating the water of the water-vessel. 2. In the combination of a closed vapourising chamber, a rotary vapouriser or disseminator, and a rotary meter-wheel, with its closed case, or an air-forcing apparatus, made to force a stream of air into and through the vapouriser, and against portions of it saturated with the volatile hydro-carbon or benzole. 3. In combining with the rotating meter-wheel and its case, and the hot water-vessel, a coiled induction air-pipe, made to pass through the water in the said vessel and receive heat from it, so as to warm the air as it passes through the pipe. 4. In combining with the induction air-pipe a small chamber and a regulator slide and orifice, for the purpose of regulating the temperature of the air passing to the meter-wheel. 5. A mode of making the disseminator of two perforated heads or discs, a hollow perforated shaft, and absorbent strands. 6. A mode of using the meter-wheel, its case and liquid, as an air-blast apparatus.

WHEAL PERU SILVER-LEAD MINE.—At a GENERAL MEETING of the adventurers, held at the offices of the company, on Monday, the 12th of December, 1853.

JAMES REID, Esq., in the chair.
The notice convening the meeting, and the minutes of the last general and special general meetings were read and approved.
The statement of accounts, together with the reports of Captains Samuel Richards and John Rodda, having been read,
It was resolved unanimously:—
That the statement of accounts and reports now read be approved and passed; and that the same be printed and circulated amongst the shareholders.
A list of shareholders in arrears with call was laid on the table, and
It was resolved unanimously:—
That notice be sent to those shareholders who are in arrears with call, informing them that unless the amounts owing by them are paid on or before the 27th day of December, 1853, proceedings will be immediately instituted in the Stannaries Court for the recovery of the same.
That the same gentlemen who have acted as committee of management for the past two months be requested to undertake the duties of that office until the next general meeting of shareholders.
That Mr. James Truscott be elected a member of the committee of management, in addition to the gentlemen re-elected by the above resolution.
That Mr. James Reid be re-elected as permanent chairman of the committee of management.
A vote of thanks was then passed to the chairman and committee of management, and the meeting dissolved.
JAMES BARTLETT TRUSCOTT, Purser.
77, King William-street.

THE WELSH POTOSI LEAD AND COPPER MINING COMPANY, CARDIGANSHIRE.

On the "COST-BOOK SYSTEM."—Capital, £100,000, in 20,000 shares of £5 each, of which £2 per share will be payable in January next.

EDWARD BATES, Esq., Boundary-road, St. John's Wood.
JAMES BURT, Esq., Briar-house, Stoke Newington.
S. A. DICKSON, Esq., Grafton-square, Berkeley-square.
J. S. ORTON, Esq., Upper Hamilton-terrace, St. John's-wood.
T. W. WILKINSON, Esq., 26, Gresham-street, London.
JOHN WILLIAMS, Esq., Middleton-place, Stoke Newington-road.
ROBERT CAMPBELL, Esq., Jermyn-street, St. James's.
THOMAS GIBBS, Esq., 36, Tavistock-place, Russell-square.
(With power to add to their number.)
BANKERS—Commercial Bank of London, Lombury.
SOLICITORS—Messrs. Harrison, 3, Walbrook.
STOCKBROKERS—Messrs. Thomas Gibbs and Son, 19, Throgmorton-street.
AUDITOR—Thomas Gervais Robinson, Esq., 8, Basinghall-street.
PURSER AND MANAGING DIRECTOR—T. W. Wilkinson, Esq.
OFFICES—26, GRESHAM-STREET, LONDON.

This company is formed for the purpose of effectually working and developing the Esgair-bir and Esgair-fraith Lead and Copper Mines, commonly known as the Welsh Potosi, situated midway between Aberystwith and Machynlleth, Cardiganshire, at a distance of nine miles from the shipping port of Aberdovey, at which vessels of 300 tons burthen can load alongside, and to which there is a good road made a few years since, at a cost of at least £1000, enabling the company to convey the ore to the port at a moderate cost.

The sett is very extensive, and includes between 1400 and 1500 acres of mineral property. The lodes, which are champions, are of very large dimensions, extending upwards of one mile in length.

The property is held for a term of 21 years, under a lease granted by Pryse Loveden, Esq., at a royalty of 1s. 4d., with a covenant for renewal for a further term of 21 years, at the same royalty.

These mines are some of the oldest on record, and have been partially worked at various periods, but never properly developed to any depth.

Some idea may be formed of their value by a reference to a work published in the year 1808, by W. Waller, Esq., the then steward of these mines, wherein it is stated "that the great lead vein is 11 ft. wide, and 7½ ft. in pure ore, and which he had no doubt would increase to 11 ft. in ore as it descended—that £40,000 was refused for one moiety," and a recent capital estimate would be able to bring in a clear profit from one of the veins of £70,000 a year. Extracts from this work may be obtained at the company's offices.

There are two powerful water-wheels, with extensive machinery, for draining the mines, raising and crushing the ore; also, houses or barracks for about 200 miners, with counting-house, smith's shop, powder, fuel, and storehouses, and cottages for workmen have been erected upon the property at a considerable outlay, and fit for immediate use.

Five large reservoirs have been constructed at a convenient distance for working the machinery and dressing the ore, thus enabling the company at once to carry on extensive mining operations. The cost of sinking the shafts, driving the levels, forming reservoirs, constructing roads, erecting the buildings and extensive machinery, is estimated at having amounted to not less than £50,000, the full and immediate benefit of which has been secured for the company.

The directors have visited and inspected the mines, and had the same carefully examined and surveyed by engineers and practical miners of considerable experience. Samples of ore have been assayed by Messrs. Johnson and Sons, and produced

Of lead 80 per cent.
Of copper 16-65 per cent. of pure copper.
Each sample shows a trace of gold.

Advantageous arrangements have been made for the purchase of the whole of this valuable property; five-sixths of the purchase money will be received in paid-up shares of the company, and the remainder in cash.

It has been determined to establish this company with so large a capital, from the peculiar nature of these mines.

The directors propose, however, in the first instance, to issue 5000 shares only to the public; but should further capital be found necessary for the development of the mine, the shareholders will have the preference in the issue of the shares.

Operations have been commenced; and it is expected very shortly that the engine-shafts will be pumped free from water and a considerable quantity of ore raised.

Full information, prospectuses, and plans of the mine, with copies of the reports thereon, may be obtained, specimens of the ore inspected, and orders for leave to view the mines furnished, upon application to T. W. Wilkinson, Esq., the managing director, at the offices of the company, 26, Gresham-street, London.

Application for shares to be made to Messrs. Thos. Gibbs and Son, stockbrokers, 19, Throgmorton-street; to Messrs. Harrison, solicitors, 3, Walbrook; or Mr. T. W. Wilkinson, at the offices of the company.

STOCKPORT, DISLEY, AND WHALEY BRIDGE RAILWAY.

(PROVISIONALLY REGISTERED.)
Capital £150,000, in 7,500 shares of £20 each.—£2 deposit.

THOMAS LEIGH, Esq., Lyme Hall—CHAIRMAN.
W. C. MOORE, Esq., Manchester—DEPUTY-CHAIRMAN.
J. W. JODRELL, Esq., of Yearley.
JNO. S. A. SHUTTEWORTH, Esq., of Hathersage Hall.
T. CARSTAIRS, Esq., M.D., Buxton.
JOHN YATES, Esq., New Mills.
(With power to add to their number.)

ENGINEERS—Messrs. Locke and Errington.
BANKERS—Messrs. Currie and Co., Cornhill, London; Messrs. Cunliffe, Brooks, and Co., Manchester.

SOLICITORS—Messrs. Hoddings, Townsend, and Lee, Salisbury; and 20, Parliament-st., London. Messrs. Hall and Janion, 6, Essex-street, Manchester.
G. R. KILLMER, Esq., Macclesfield.

SECRETARY—Mr. John Lowe.
TEMPORARY OFFICES OF THE COMPANY—6, ESSEX STREET, MANCHESTER.

The primary object of this railway is to accommodate the populous district lying between the great manufacturing town of Stockport and Whaley Bridge, passing in its route by Hazel Grove, Disley, and New Mills, and bringing the whole into direct communication with Stockport and Manchester, by joining the London and North-Western at Stockport. Those acquainted with this district are aware that it possesses all the elements of a remunerative railway traffic from the number of mills and other manufactures on the proposed route, and the dense population which these have attracted.

While its immediate neighbourhood is thus more than usually calculated to render the proposed line a safe investment, it will incidentally accommodate the large space lying between the Midland Railway on the east, and the North Staffordshire Railway on the west, and as far south as Bowley, including Hayfield, Chapel-en-le-Frith, Edale, and Baslow, Castleton, Hathersage, and other places in the Derwent Valley, large and varied traffic from all which sources concentrates on and must pass over this line. It is, in point of fact, the key of the district, and will connect with the beautiful scenery of North Derbyshire and the rapidly improving watering place of Buxton, not only Stockport and Manchester, but the West Riding of Yorkshire, the whole of the great manufacturing towns in Lancashire, the Staffordshire Potteries, the whole of the North, and Ireland.

The length of line required for these objects is only ten miles, and which will be constructed under most favourable circumstances.

The landowners of eight-tenths of the line have already actually agreed with the committee to take agricultural value for their land.

The works are of an ordinary character. A tender has been received by the committee for the execution of the line, which enables them to form an accurate opinion as to the cost; and although to avoid the possibility of having to go to Parliament at any future time for an increase of capital, they have fixed it at £150,000, they have every reason to believe that the whole work will be accomplished for a smaller sum.

The committee have also to state that they are in friendly negotiation with the London and North-Western Railway Company for traffic and working arrangements. The actual existing traffic on the line has been taken, and shows a revenue of about £18,000 per annum, taking passengers at 1d. and 2d. per mile, and goods at 2d. per ton, which, after deducting 50 per cent. for working expenses, would leave a dividend of 6 per cent., supposing the whole capital expended; this includes no anticipated increase likely to arise from the accommodation of a railway. Other data might be given to show the probability of a large return.

The committee do not, however, think it necessary to go into such details, feeling confident that there is hardly a district in England so thickly populated, with so many coaches, mills, manufactures, and collieries upon it as the present, which is unaccommodated with a railway.

Applications for shares, in the undermentioned form, and prospectuses, to be made to the solicitors; or the Secretary; or to Mr. William Shore, sharebroker, St. Ann-street, Manchester. Prospectuses may also be had at the office of Mr. C. Mitchell, Red Lion-court, Fleet-street, London.

To the Provisional Committee of the Stockport, Disley, & Whaley Bridge Railway Co. I request you will allot me shares in this company, and I agree to accept the same, or any less number that may be allotted to me, and to pay the deposit thereon of £2 per share when required.

Dated this day of 1853 Name in full Address Occupation

Signature Address

NOTICE TO RAILWAY AND STEAM-BOAT TRAVELLERS.

—ANDERTON'S TRAVEL, 162, 164, and 165, FLEET STREET. BREAKFAST, with joint, 1s. 6d. BEDS, 1s. 6d. per week. DINNERS from Twelve to Eight o'clock, joint and vegetables, 1s. 6d.; with soup or fish, 2s. TURTLE SOUP and VENISON DAILY. TABLE D'HOTE at Half-past One and Half-past Five, at Two Shillings each. A night porter in attendance.

IMPROVED LIFTING JACKS.

MANUFACTURED BY
W. AND J. GALLOWAY,
PATENT RIVET WORKS,
MANCHESTER.

The attention of parties who employ
Lifting Jacks,
Is respectfully requested to the superiority of those annexed, over those hitherto in use.



THE CARMARTHEN AND CARDIGAN RAILWAY, AND CARDIGAN HARBOUR IMPROVEMENT COMPANY.

On the Broad Gauge.
Under the Sanction of the Great Western and South Wales Railway Companies.
PROVISIONALLY REGISTERED.
Capital £1,000,000, in 100,000 shares of £10 each.—Deposit £1 ls. per share.
PROVISIONAL DIRECTORS.

SAMUEL CROSSE, Esq., 29, Threadneedle-street, London; and Salisbury House, Edmonstone, Middlesex.
ALBERT HENRY DORR, Esq., American merchant and banker, 5, Warrford-court, Throgmorton-street.
E. C. LLOYD FITZ WILLIAMS, Esq., Justice of the Peace, Chairman and Director of the New Quay Harbour Company, Emlyn Cottage, Newcastle Emlyn; and Allt-cradda, near Kidwelly.
ROBERT F. GOWER, Esq., 20, York-terrace, Regent's-park.
ROWLEY L. S. LLOYD, Esq., Fencible, Lieut. Col., Cardiganshire.
J. R. LEWIS LLOYD, Esq., Justice of the Peace, and Deputy-Lieutenant, and Director of the New Quay Harbour Company, Dolbadly, near Newcastle Emlyn.
JOHN PETER PARLAND, Esq., Woodlands, Glasbury, near Brecon.
COL. ALEXANDER PERCEVAL, 1st, Belgrave-road, Belgrave-square.
JOHN PROPERT, Esq., Justice of the Peace, and Deputy-Lieutenant, 6, Cavendish-street, Portland-place; and Blenheim-street, near Cardigan.
(With power to add to their number.)
ENGINEER—James Richardson, Esq., C.E.

BANKERS—London—The London and Westminster Bank, Lombury.
Carmarthen—Messrs. Wilkins and Co.; Messrs. Morris and Sons.
Cardigan—Messrs. Wilkins and Co.
Haverfordwest—Messrs. Wilkins and Co.
SOLICITORS—Messrs. Carnes and Co., 1, Raymond-buildings, Gray's Inn, London.
BROKER—S. H. Ellis, jun., Esq., 1, Copthall Chambers, Angel-court.
SECRETARY—Owen Bowen, Esq.
OFFICES OF THE COMPANY—29, THREADNEEDLE STREET, LONDON.

PROSPECTUS.

This company, which is under the sanction of the Great Western and South Wales Railway Companies, and patronised by the corporations of Cardigan, Carmarthen, and Kidwelly, and the principal magistrates, landowners, and gentlemen of influence interested in the several counties of Carmarthen, Cardigan, and Pembroke, will form a direct broad-gauge communication between London and the important sea-port and town of Cardigan; embracing also the intervening towns of Kidwelly, Carmarthen, Llandysilly, and Newcastle Emlyn, by means of the South Wales and Great Western route; and by branch lines of railway from Carmarthen and Kidwelly, it will connect the important mineral districts of the Van, Capel, Crwban, and Graigleuca districts of lime-kilns, and Cross-hands and Gorsceil district of coal pits, with Kidwelly, Carmarthen, Llandysilly, Newcastle Emlyn, and Cardigan, so as to bring both lime and coal to the country bordering on the River Tivy, at a moderate cost, and by its connection with the South Wales, Vale of Neath, and other railways, to take back the agricultural produce of that part of the country to the iron works and other good markets.

In addition to the foregoing important objects, there is one of great national interest proposed by this company—viz., the improving the port of Cardigan, and the formation of a harbour of refuge in Cardigan Bay for the west coast of Wales, which can be carried out at a comparatively moderate expense.

The distance between London and Dublin is many miles shorter by Cardigan than by Holyhead, and Cardigan is nearly in the direct line from London to Waterford and Wexford. The extent of the passenger line will be about 40 miles, and the mineral branches about 23 miles—in all about 63 miles—which at £14,000 per mile, leaves £118,000 for the cost of the harbour of refuge.

These are about 150 kilns in the neighbourhood of the lime district, producing, at present, about 500,000 tons of lime annually (four-fifths of which are carried northwards) and many coal-pits, producing upwards of 500,000 tons; and for a very large portion of this produce the proprietors of the lime kilns and coal-pits would gladly avail themselves of this railway, as a means of transit to the upper parts of Carmarthenshire and Pembroke, and the whole of the county of Cardigan, as well as to Kidwelly, Pembrey, and Llandysilly; and from statistics carefully prepared by this company, the directors feel justified in asserting that at least 100,000 tons of coal for burning lime would be conveyed at 1½d. per ton per mile, a distance of six miles at least on the line, and that at least 400,000 tons of lime and 250,000 tons of coal and culm, for domestic use, would be conveyed every year at 1½d. per ton per mile, an average distance of 30 miles, and these quantities would be greatly increased from year to year, to say nothing of any coal for steaming purposes brought down to be shipped at Pembrey Docks and Milford Haven, or elsewhere.

That the traffic in coal and lime would be borne over this line there can be no doubt, as it will save the consumer at least 75 per cent. in the cost of carriage and turnpikes. There are nearly 2000 square miles of land in the counties of Carmarthen, Cardigan, and Pembroke, the greater portion of which is cultivated, or capable of cultivation. The nature of the soil requires lime as a manure, the major part of which lime, as well as the necessary supply of coal for its manufacture, and for domestic purposes, coming from one district on the line of the proposed mineral branch, where only it is to be obtained, is at present conveyed by horses, waggons, and carts, at an average expense to the purchaser of 6d. to 1s. per ton per mile, for carriage only—about 300 per cent. more than the charges of the proposed railway.

Present traffic in lime to Cardiganshire, and the upper parts of Carmarthenshire and Pembroke, conveyed on an average a distance of 30 miles, at 1½d. per ton per mile (in lieu of 6d. to 1s. per ton, the present expense), is calculated to produce—

Culm to burn the lime carried to the limekilns, an average distance of six miles, 1½d. per ton per mile, or 9d. per ton	£75,000 0 0
Coal and culm conveyed on an average the same distance as the lime	3,750 0 0
Cattle traffic, including black cattle, horses, sheep and pigs, calculated to produce a revenue of, per annum	46,875 0 0
Wheat, barley, oats, butter, cheese, poultry and eggs, conveyed to the iron-works and manufactory districts, and for domestic purposes, coming from the Cardigan slate quarries, bricks, timber, bark, wool, lead ore, fish, and miscellaneous traffic, exports and imports, and back carriage	3,000 0 0
Total	£134,625 0 0
Deduct for working expenses 45 per cent. from gross receipts, or	60,581 0 0
Leaves a net income of	£74,044 0 0

or equal to a dividend of nearly 7½ per cent. per annum on the capital of the company. It will be observed, that whilst the cattle, wheat, &c., traffic is put at an extremely low estimate, no allowance whatever is calculated for passenger traffic or harbour dues from the port of Cardigan, facts which cannot fail to strike the most casual observer. The working expenses, on the contrary, are assessed at the highest estimate known on any line. The result must be found in the decreased cost of construction, the fruit of a close attention to the expenditure of similar undertakings in former years.

Public meetings have been held in the various towns along the course of the intended railway, and without the cost of advertisements, or other usual means of obtaining subscriptions, upwards of £250,000 have already been subscribed in the country districts.

Applications for shares to be made to the secretary, at the offices of the company; to the solicitors, Messrs. Carnes and Co., Raymond-buildings, Gray's Inn; as also to the broker, S. H. Ellis, Esq., of Copthall-chambers, and to Mr. Edmund Blithway, of Kidwelly; George Thomas, Esq., town-clerk, Carmarthen; William Goodie, Esq., solicitor, Carmarthen, for the mineral district; Benjamin Evans, Esq., solicitor, Newcastle Emlyn; R. D. Jenkins, Esq., Cardigan; — Sandford, Esq., Exeter; and to — Fynney, Esq., Manchester; from whom detailed prospectuses may be obtained.

FORM OF APPLICATION FOR SHARES.
To the Directors of the Carmarthen and Cardigan Railway and Cardigan Harbour Improvement Company.

GENTLEMEN,—I request that you will allot to me shares in this Company, and I hereby agree to accept that, or any less number that may be allotted to me, and to pay the deposit of £1 ls. upon each share, and all calls thereon, and sign the parliamentary contract and subscriber's agreement when required by you.

Dated this day of 1853.

Name in full Address Profession

Reference

GRATIS! GRATIS! GRATIS!
Seventy-fourth Thousand. Library Edition. Sent free on receipt of Six Stamps to pre-pay postage, &c., and may be had through all booksellers, price 6d.

EVERY MAN HIS OWN DOCTOR; a popular Guide to Health, addressed to the Young, the Old, the Grave, the Gay. By a PHYSICIAN. Admirably adapted to enlighten the public mind in a species of knowledge in which every individual is concerned.—Co. Chron.

To the married and unmarried we particularly recommend this work. It is so lately issued just that very necessary information as is too frequently sought in vain from other sources.—Atlas.

Parents, heads of families, clergymen, conductors of schools, and all who are interested in the future well-being of others, should possess this invaluable guide.—Meath Herald.

It ought to be placed in the hands of every youth.—Kent Observer.
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Calculated to do more good than fifty sermons.—Plough.
Those who have been too long the dupes of cunning quacks should secure this safe and cheap volume.—Bristol Examiner.

Address, Mr. LAWES, publisher, 2, Charles-street, Hatton-garden, London.
Beware of a spurious and useless copy under a similar name.

London: Printed by RICHARD MIDDLETON, and published by HENRY ENGLISH (the proprietors), at their offices, No. 26, FLEET STREET, where all communications are requested to be addressed.—December 17, 1853.